GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED
VAL/M/2
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Committee on Customs Valuation

MINUTES ON THE MEETING HELD ON
5 MAY 1981
Chairman: Mr. E. -A. Hörig

1. The Committee on Customs Valuation held its second meeting on 5 May 1981.

2. The Committee adopted the following agenda:

(A) General policy statements
(B) Accession of further countries to the Agreement
(C) 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)
(D) Consideration of procedures on reservations made under Article 23
(E) Procedures for the annual review of the operation of the Agreement and the annual report to the CONTRACTING PARTIES (Article 26)
(F) Use of various valuation methods by Parties
(G) Report by the Chairman of the Technical Committee
(H) Date and draft agenda for the next meeting
(I) Other business

A. General policy statements

3. The representative of Japan stressed the great importance which his authorities attached to international harmonization of valuation systems. He noted that, following the conclusion of the Agreement on Customs Valuation, there now existed a common starting point to make efforts in this direction. The Agreement had been approved by the Diet as an international treaty; in addition, the implementing legislation had also been approved by the Diet. Therefore, a new valuation system which was consistent with the Agreement had been put into force for Japan as from 1 January 1981. He expressed the hope that the Agreement would be accepted by as many countries as possible at an early date in order to encourage international harmonization of valuation systems. He underlined the importance of close co-operation between the GATT and the Customs Co-operation Council (CCC). He expressed the hope that the existing co-operation between the two Committees established under the Agreement and the organizations concerned would be further strengthened. On the question of an examination of national legislation, for instance, he noted that at the first meeting of the Committee some members had stated that the tasks of the GATT Committee and the Technical Committee should complement each other, a view which he shared. If a majority in the Committee felt that technical aspects of national legislations should be examined by the Technical Committee, he could agree to this.

4. The representative of the United States stated that the Agreement on Customs Valuation had the greatest practical effect on international trade since it dealt with the determination of value for all dutiable transactions in the application of ad valorem tariffs. The purpose of the negotiations had been to establish a system that would make the determination of customs value a neutral process in the application of a tariff. At the same time, the negotiators wanted to make customs valuation consistent with business and commercial realities and predictable for the business community. Work had still to be done in the GATT Committee and in the CCC Technical Committee, and unforeseen problems which would undoubtly arise would require attention. Business practices would change over time and such developments would have to be taken into consideration as the Parties moved forward in the administration of the Agreement. If the Parties continued to work together in this field in a spirit of co-operation, their efforts would be rewarded in the future.

5. The representative of the European Economic Community stated that experience had been gained from the six-month application of the Agreement in 1980 by the EEC and by the United States. This experience led the EEC to conclude that the expectations for a practicable and fair system of customs valuation had been met. The new system had generally been well received by customs administrations and traders alike. The EEC had indications that many customs officials had found that it was simpler and easier to apply than the previous system. Likewise, the business community appreciated the new system. There had not been any major problems in the implementation,a fact which was of importance to countries which were considering acceding to the Agreement. The EEC had faithfully reflected in its legislation all the requirements of the Agreement and the Protocol. As a matter of policy, it had been decided to follow the wording of these two texts, even though certain concepts could have been expressed differently. Such a practice should be followed by countries which were currently considering how to implement the Agreement. The EEC believed that the relationship between the GATT Committee and the CCC Technical Committee was a matter of fundamental importance. From the start a spirit of co-operation had prevailed between both organizations. If it could be maintained, the implementation and the management of the Agreement would be carried out in a harmonious way. As to the implementation, the EEC had taken certain decisions in its legislation about the interpretation of the concept of sale for export to the EEC, cash discounts and interest payments; in adopting this legislation, the EEC had reflected the spirit of the Agreement in areas which were not completely covered by the latter and it would be interested to share its thinking with other Parties on these matters. Like Japan, the EEC believed that harmonization was a very important matter. The EEC legislation provided a basis for co-operation and for the harmonization in the application. This was another message which could be communicated to countries which were just beginning the application or which were reflecting on their position. The EEC faced the future with great optimism. Like the United States, the EEC believed that there was a great deal of work to be done.

6. The representative of Canada stated that his country attached considerable importance to the Agreement which would require extensive changes in Canada's present system. Because of the extent of the changes required, the Government had asked the Canadian Tariff Board in August 1980 to review the draft legislation and report by 1 April 1981 on its suitability to give effect to Canada's rights and obligations under the Agreement. The Board's report was presently being studied. In preparing it, the Board had held a series of public hearings in Canada in order to receive the views of all interested parties including those of some of Canada's trading partners. The Board had generally accepted the draft legislation as a suitable basis for implementing the Agreement. The Government's intention was to respond to the Board's report in July of this year, following which the Board would begin the second phase of its work, i.e. to study the impact which the implementation of the Agreement would have on the Canadian level of tariff protection. The Board had been asked to report by 1 July 1983 on that part of its study. The Government had indicated that it did not intend to table the customs valuation legislation in Parliament until after the completion of the Board's report on the impact of the legislation. The period between 1 July 1983 and 1 January 1985 should allow the government time to reach decisions on the 1983 report and to discuss them with Canadian trading partners.

7. In conclusion, the Chairman said that the respective rôles of the GATT and the CCC laid down in the Agreement provided a sound basis to avoid friction. The CCC had for many years gained vast experience in customs matters, while the GATT was responsible for trade policy questions.

B. Accession of further countries to the Agreement

8. The Chairman recalled that since the first meeting, no requests for accession had been received.

9. The representative of Austria said that the Protocol had been ratified on 6 April 1981. He expressed the hope that other countries including non-contracting parties would join the Agreement.

10. The representative of Spain said that the Spanish Parliament had recently ratified the Tokyo Round Agreements that Spain had signed, including the Agreement on Customs Valuation. The reservation which Spain had made upon signature relating to ratification could soon be lifted.

11. In response to a question by a party as to the expected date of implementation, the observer for Australia said that his authorities had previously announced that the Agreement would be put into force from 1 July 1981. However, due to other urgent business before the Australian Parliament, the amendment necessary to the Customs Valuation Act could not be passed by this date. He hoped to be in a position shortly to give a date by which the Agreement would be implemented.

12. The observer for New Zealand said that the internal procedures were going forward to enable New Zealand to be able to implement the Agreement by 1 July 1982.

13. The representative of the European Economic Community supported pleas already made for as wide a participation as possible to the Agreement. He expressed the hope that the experience of other Parties

would lead the countries concerned to accelerate their work and to communicate their acceptance as soon as possible. He pointed out that he would like to see more developing countries sign the Agreement. He believed that the question of technical assistance was an important one.

14. The Chairman underlined the importance of further countries acceding to the Agreement at the earliest possible date.

C. Implementation and administration of the Agreement (VAL/1, addenda and supplements and VAL/2)

15. The Chairman recalled the decision taken by the Committee at its first meeting concerning the circulation of national legislations on customs valuation. The relevant texts had been received from the United States, the European Communities, Sweden, Finland, Switzerland, Hungary, Japan and Romania (VAL/1/Adds.1-8); in addition Finland, Hungary, Japan, Romania and Sweden had also submitted the texts in their national languages which were open for inspection in the secretariat. The Chairman then invited those Parties which were already applying the Agreement to take the floor to respond to the various questions contained in document VAL/2 in the light of their national legislation.

16. The representative of Switzerland said that since the Swiss customs tariff contained only specific duties, the Agreement was not directly applicable to the tariff system of his country. However, it was clear that his country would apply the Agreement in the event that it adopted, even partially, ad valorem duties, and it would notify any changes in its national legislation to the Committee in accordance with Article 25.2. In such a case, Switzerland would be prepared to undergo the same examination as envisaged in document VAL/2 and provide information on the use of valuation methods. The purpose of the participation of Switzerland in the work of the CCC and the GATT was not only to be seen in the light of Swiss exports, but also for information and for training purposes so that, if a decision were taken in the way indicated above, Switzerland would be prepared to apply the Agreement.

17. The representative of Romania said that the Agreement was applied by his country on the basis of a Decree of the State Council of 11 June 1980. This meant that the Agreement had been incorporated in the Romanian national legislation. The Agreement and the Protocol had been published in the Official Journal of the Socialist Republic of Romania No. 47, Part I, of 16 June 1980. A notification to this effect had already been sent to the secretariat for circulation; any changes to the national legislation would be communicated as well. Regarding the initial examination of the national legislation of the Parties, his delegation would present details on the implementation and the administration of the Agreement in Romania at the next meeting of the Committee, or in writing to the secretariat before that meeting.

18. The representative of the United Kingdom speaking on behalf of Hong Kong said that his delegation could not make any specific comments because Hong Kong did not levy customs duties. While Hong Kong had accepted the Agreement and the obligations contained therein, it had no laws, regulations or procedures for valuing goods for customs purposes. If at any stage Hong Kong should contemplate levying customs duties, its

valuation would be in accordance with the Agreement, and any necessary changes in the laws and regulations would be notified to the Committee. Hong Kong would submit to the Committee a written statement to this effect. He expressed the wish to participate fully in the work of the Committee. Hong Kong believed that discipline in the customs valuation area was one way in which developed countries could show their goodwill towards developing countries.

19. The Committee then examined the points of the checklist in the order they appeared in document VAL/2.

1. Questions concerning Article 1:

(a) Sales between related persons:

(i) Are sales between related persons subject to special provisions?

20. The representative of the European Economic Community said that the provisions of the Agreement had been included in the EEC legislation. The EEC had found it necessary to define the concept of "family" in its legislation. Since this concept would possibly vary from one country to another, he wondered whether other delegations had proceeded in the same way. The EEC definition as well as the necessary references would be given in the written submission.

(ii) Is the fact of intercompany prices prima facie considered as grounds for regarding the respective prices as being influenced?

21. The representative of Finland replied in the negative. The representative of Japan said that the question was whether the relationship had influenced the price declared by the importer and examined by the customs administration on a case by case basis in accordance with the provisions of Article 1.2 of the Agreement. The representative of the European Economic Community said that the answer should be in the negative if the Agreement was properly respected. The representative of Austria said that in his case the answer was negative.

22. The representative of the United States said that during the negotiations of the Interpretative Notes much attention had been devoted to the concept of sales between related persons to ensure that in fact intercompany prices were not considered prima facie grounds for regarding the respective prices as being influenced. The Interpretative Notes had been incorporated in the United States regulations on related parties. This ensured that related parties were treated in an even-handed manner. He noted that in some of the legal texts submitted to the Committee there was no reference to some of the Interpretative Notes which formed an integral part of the Agreement. He wondered whether there existed other texts which would give effect to these Interpretative Notes. This remark did not only relate to this particular point but to others as well. By way of illustration, he quoted the Finnish regulations where he could not detect any reference to the Interpretative Notes. He wondered whether they were included in internal instructions that the customs administration had been drawn up for its customs officers to follow. He hoped that in the written notifications delegations would give information with respect to this particular point.

23. The representative of Finland said that the Agreement in its entirety, which had been approved by the Parliament, formed an integral part of the Finnish legislation. In this way, the Interpretative Notes were included in the legislation. The Customs Valuation Act of 19 December 1980 had been drawn up for the purpose of implementing the Agreement. However, not all details had been included in the Act and some of them had been left for administrative orders or instructions by the Board of Customs. Part of the Interpretative Notes were covered in this way. All the customs officials concerned were fully informed of the exact text of the Agreement.

24. The representative of the European Economic Community said that whereas the inclusion of Interpretative Notes in instructions to customs officials might perhaps be regarded as satisfactory, it had to be recognized that the Agreement was intended to give rights to individuals and to lay down how their transactions should be treated. It was not clear that the mere reference or the inclusion of Interpretative Notes in departmental instructions would give rise to the rights of the individual importers. These instructions might be treated only as guidelines for the customs. This was an important point which should be raised at an appropriate time.

25. The representative of Norway said that his country had incorporated the major Interpretative Notes within the official regulations which had full legal status. Concerning the question of intercompany prices, Norway followed the principle of self-declaration which meant that unless any deviation had been proved, the declarations were considered as valid.

26. The representative of Hungary said that Interpretative Notes formed an integral part of the Hungarian legislation as well as the whole Agreement and the Protocol.

27. The representative of Sweden said that most of the Interpretative Notes had been incorporated in the Swedish legislation. The system of self-declaration was identical to the Norwegian system.

(iii) What is the provision for giving the communication of the aforementioned grounds in writing if the importer so requests?

28. The representative of the European Economic Community said that this provision had been directly incorporated in the EEC legislation. This was regarded as one of the fundamental provisions which would ensure a proper discipline in the application of the Agreement. Some countries had not included this provision on the grounds that its requirements had always been applied in practice. He wondered whether this was satisfactory. He believed that the provisions should be faithfully reflected in the legislation of the Parties.

29. The representative of Sweden said that Swedish administrative law stipulated that for all administrative decisions, reasons had to be given in writing. He felt that this provision met the issue raised. The representative of Austria confirmed that the situation which prevailed in his country in this regard was identical to that described by the previous speaker. The representative of Hungary said that according to the Hungarian general administrative law, a decision by the customs authority had to be justified in written form even without a request from an importer.

30. The representative of the European Economic Community drew attention to the distinction between the provisions of Article 16 which required the importer to be informed of the value determination and which could probably be covered in some general provisions, and the provisions of Article 1.2(a) which contained a specific right for the importer to obtain from the customs the grounds for considering that the relationship had influenced the price. The importer was in addition given a reasonable opportunity to respond, to question the grounds and to give other evidence which might lead to a different conclusion. The EEC was not convinced that this particular provision was adequately covered by general legislation which required reasons to be given in relation to administrative decisions. The particular nature of the provision in Article 1.2(a) might thereby be ignored. The Committee should come back to this point at a future time.
31. The representative of Hungary said that he did not see why the provisions concerning the communication of reasons to the importer in a written form should be spelled out in a more detailed manner in the national legislation.

(iv) How has Article 1:2(b) been implemented?

32. The representatives of Austria, Hungary and Sweden said that Article 1:2(b) had been incorporated in their respective customs valuation legislations.

(b) Price of lost or damaged goods:
(i) Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?

33. The observer for the Customs Co-operation Council said that the question of the treatment of goods not in accordance with the contract was on the agenda of the next meeting of the Technical Committee. In addition, he pointed out that in the discussion so far and in the documentation which had been prepared, it was becoming clear that lost or damaged goods had not in all cases been treated as a valuation matter.

(ii) Do payments resulting from insurances for the benefits of the buyer prevent customs from accepting a price being reduced in proportion to the reduction of the real value of the imported goods or parts thereof?

34. The representative of the United States said that this was a highly technical question. The representative of the European Economic Community said that this particular point could be seen as part of the question of the treatment of lost or damaged goods.
35. The observer for the Customs Co-operation Council said that the Technical Committee could include this question in its forthcoming consideration of the issue of lost or damaged goods. This was so agreed and the item would be deleted from the checklist.

2. How has the provision of Article 4 to allow the importer an option to reverse the order of application of Articles 5 and 6 been implemented?

36. The representative of the United States stated that his country's legislation provided that the time at which the importer could exercise the option was when he filed the entry documents for the goods. He suggested that in the written answers to the questions in the checklist, the delegations indicate the material time for exercising the option under their respective legislation.
37. The representative of the European Economic Community referred to the General Introductory Commentary of the Agreement which provided that where the transaction value would not be applied, there should be some kind of dialogue between the importer and customs. It was not entirely evident that the importer would be in a position to make the option until he had had this dialogue with the customs. It was difficult to provide that the option had to be made at the time of declaration because of this question of dialogue. However, it was necessary that the importer should not be able to have the goods valued under one method, and then opt to change over to the other method if he did not like the results of the first determination. This might be a question the Technical Committee might want to consider.
38. The representative of Finland said that the Finnish Customs Valuation Act provided for the option to be exercised by the importer before the completion of the customs clearance.
39. The Chairman proposed that in the answer to question 2 an indication be included whether there was a provision in the national legislation for the timing at which the importer must exercise his option.

3. How has Article 5.2 been implemented?

40. The representative of Austria said that Article 5.2 had been incorporated in the Austrian legislation.
41. The representative of the European Economic Community recalled that this method was optional in the sense that it could be used at the discretion of the importer. He also recalled that certain developing countries had reserved their right to apply the provision on the basis of a decision by the customs, whether or not the importer so requests.
42. The Chairman proposed and the Committee agreed that a question be added to the checklist concerning the way in which Parties had incorporated the provision of Article 6.2, namely the verification of the trade data in the country of exportation.

4. Questions concerning Article 7:
   (a) What provisions have been made for making value determinations pursuant to Article 7?
   (b) What is the provision for informing the importer of the customs value determined under Article 7?
   (c) Are the prohibitions found in Article 7.2 delineated?

43. In answer to a question concerning Article 7.3, the representative of Austria said that the Austrian general administrative law which covered this question would be notified to the Committee.
44. The representative of the European Economic Community said that the EEC had in most cases incorporated the text of the Agreement without any changes or additions. However, a provision had been added in this particular case that a request for information had to be submitted within a month after the date when the customs value was determined.
45. The representatives of Austria, the European Economic Community, Finland, Hungary and the United States said that the provision of Article 7.2 had been included in their respective legislation. The view was expressed that it was essential that the provision be fully included in the legislation of all Parties.

5. How have the options found in Article 8.2 been handled?

46. The representative of the United States, in reply to a question, stated that ex-factory prices were accepted by his customs authorities if the sales contract and the transaction price provided accordingly. The representative of the European Economic Community said that the Community had excluded "unloading charges" from the items to be added under Article 8:2(b) since it felt that the addition could create unnecessary complications for importers.

6. Where is the rate of exchange published, as required by Article 9.1?

7. What steps have been taken to ensure confidentiality, as required by Article 10?

No comments were made under points 6-7.

8. Questions concerning Article 11:

(a) What rights of appeal are open to the importer or any other person?

(b) How is he to be informed of his right to further appeal?

47. In answer to a question, the representative of the European Economic Community said that no detailed provision concerning Article 11 was contained in the customs valuation legislation of the EEC which in this respect had adopted the same approach as the United States. The EEC was in the process of taking steps towards harmonization of its provisions in this area, covering the general question of the right of appeal, and a draft directive had already been published. For the time being, however, the rules concerning the right of appeal were governed by the national legislation in each of the member States. As to the United States legislation, the hope was expressed that an adequate answer be given in writing on this item, including the question of double burden in the previous United States legislation.

48. The representative of the United States said that his authorities would respond to this particular request. There were particular provisions in the United States regulations which were being compiled, for example the provisions concerning the right of appeal which were contained in Section 514-515 of the Tariff Act of 1930.

9. Provide information on the publication, as required by Article 12, of:

(a) (i) the relevant national laws

(ii) the regulations concerning the application of the Agreement

(iii) the judicial decision and administrative rulings of general application relating to the Agreement

(iv) general or specific laws being referred to in the rules of implementation or application

(b) Is the publication of further rules anticipated? Which topics would they cover?

49. In answer to a question, the representative of the United States said that the Customs Service promulgated a limited number of administrative rulings, i.e. those of a precedent setting nature. Unpublished rulings were restricted to the customs officers and for their guidance on specific issues. His understanding was that information in the Committee was required on where these decisions and rulings were publicly available in the countries concerned.

50. The Chairman confirmed that it was also his understanding that the Parties would want to know where these decisions and rulings were published.

51. The representatives of India and the European Economic Community pointed out that internal decisions taken by other Parties could not affect the rights of other Parties. If it was found that other Parties applied the Agreement in a way which affected their rights, they would revert to the matter at a subsequent meeting of the Committee.

10. Questions concerning Article 13:

(a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?

(b) Have additional explanations been laid down?

11. Questions concerning Article 16:

(a) Does the respective national legislation contain a provision requiring customs authorities to give an explanation in writing as to how the customs value was determined?

(b) Are there any further regulations concerning an above-mentioned request?

12. How have the Interpretative Notes of the Agreement been included?
No comments were made under points 10-12.

52. At the end of the discussion of item C of the agenda, the Committee decided that the checklist should be brought up-to-date in the light of the discussion held and that Parties should respond in writing to the points contained in the revised checklist. Replies submitted by the Parties would be circulated as addenda to the revised checklist which would be reproduced in VAL/2/Rev.1.

D - Consideration of procedures on reservations made under Article 23

53. The Chairman recalled that, at its first meeting, the Committee adopted procedures for reservations (see in Annex 2 of VAL/M/1). The discussion which was held at that time in this regard was reflected in paragraphs 22-36 of VAL/M/1.

54. The observer for Australia stated that Australian concerns were ones of principle rather than of interpretation. They felt that Article 23 of the Agreement should conform with the provisions of Article XXXIII of the General Agreement. He recalled that Article XXXIII had been amended in 1948 to allow for decisions by a two-thirds majority of votes cast. Protection for the minority view had been provided through the introduction of Article XXXV relating to the non-application principle which ensured that a contracting party would not be obliged to enter into obligations without its consent. The present wording of Article 23 of the Agreement, however, not only provided dissenting Parties with a power of veto, but the application of those powers would, in effect, nullify or impair the rights of any other Parties which might have supported the basis on which another Party had proposed to participate in the Agreement. This problem concerning the inconsistency between the Agreement on Customs Valuation and the General Agreement had not been resolved by the amendments to paragraph 4 of the procedures on reservations adopted by the Committee at its last meeting. While the amendments made then did provide an added degree of transparency in a Party's action in opposing a reservation, the basic problem remained that the Agreement conferred on a Party a right which that Party did not have under the General Agreement. He stated that his concerns had implications extending to other Agreements - though those concerns were heightened in this case by the absence of a non-application clause - and thus he would wish to reserve Australia's GATT rights on this matter, and advised the Committee that Australia had in mind raising this issue in the Council at a later date.

55. The Committee took note of the statement made.

E. Preparation of annual review

56. The Chairman recalled that, according to Article 26 of the Agreement, the Committee should review annually the implementation and operation of the Agreement taking into account its objectives. The Committee should also annually inform the CONTRACTING PARTIES of the

developments during the review period. One aspect of this annual exercise was that the Committee should review the operation and effectiveness of Article 21 and the Protocol concerning special and differential treatment for developing countries. Other NTM Committees had started preparations for the review by inviting the secretariat to prepare an outline which could be used as a basis for governments in their subsequent preparations. If this line was followed the Committee might examine in due course such a draft and agree more precisely how and when to arrange for the annual review, including national submissions, if any, which might be found necessary. He enquired whether delegations agreed with this suggestion and, if so, whether there were any comments, including possible priorities, which the secretariat should take into account in preparing a draft outline for the first annual review.

57. The representative of the European Economic Community presented the following list of points for inclusion in the first annual review:

- membership,
- legislations presented,
- reservations entered,
- amendments and rectifications to the text of the Agreement,
- possible requirements for amendment of the Agreement,
- litigation (whether in Panels or in national or supranational courts) hinging on the text of the Agreement,
- technical assistance,
- information and advice from the Technical Committee, and general report on the Technical Committee,
- substantial difficulties encountered by Parties in applying the Agreement.

58. The representative of the United States proposed the addition of a point concerning the decisions taken by the Committee.

59. The representative of Japan raised the question of the timing of the annual review and of the items to be covered by it. Regarding the question of timing, he said that early December might perhaps be adequate due to the one-year experience concerning the operation of the Agreement. As to the items to be covered, he suggested that the Parties be invited to inform the secretariat by a given date of the possible issues they might wish to see included in the first annual review. These issues would then be circulated by the secretariat to the Parties well in advance of the first annual review. As far as Japan was concerned, he wanted to reserve his rights to inform the Committee of appropriate issues, if any.

60. The Chairman noted that early December might be too late since the annual review and the annual report were closely linked to each other and the report had to be submitted to the CONTRACTING PARTIES in the week of 23 November 1981. He proposed the end of June as an appropriate deadline for comments to be submitted to the secretariat.

61. The representative of the European Economic Community said that the review should begin in autumn but might have to be carried over to the next year because insufficient information was available.

62. The representative of Finland supported the EEC proposal that it might be practical to deal simultaneously with the annual review and the annual report, and that a decision should be taken in the autumn on the basis of the information received from the Parties.

63. The representative of Japan said that he would recommend to his authorities the timing of a possible first annual review in November if that proposal was supported by the majority of the Parties.
64. The Committee agreed that the Parties would notify the secretariat before the end of June 1981 of the items to be covered in the annual review of the implementation and operation of the Agreement and in the annual report to the CONTRACTING PARTIES.

F. Use of various valuation methods by Parties

65. The Chairman recalled that at the first meeting of the Committee he had suggested that Parties request their customs authorities to collect data on the method of valuation applied for all customs entries during a certain period of time. This would enable Committee members to find out to what extent various provisions of the Agreement had been used in the actual implementation of the Agreement in other countries. It would furthermore give a valuable indication to observers about the operation of the Agreement when they consider signing it. This information would be included in the annual review.
66. The representative of the European Economic Community said that this exercise was necessary, even if the EEC might have practical difficulties. The information could be based upon statistically representative samples during an appropriate period and should be included in the annual report. The percentage of clearances should be indicated with respect to each valuation method. This would contribute to the understanding of the Agreement on Customs Valuation.
67. The representative of Sweden said that his authorities which had expressed a certain reluctance when the item had been raised first, would try to go along on a sample basis.
68. The representative of Norway said that he agreed with the idea. However, he could not give a definite promise before having consulted his authorites.
69. The representative of the United States felt that in view of the amount of work involved it would be preferrable to establish representative estimations based on representative samples. He expressed his agreement with the objectives of the exercise but an understanding was needed on the use of the estimated basis.
70. The representative of Japan, while pointing to the practical difficulties involved, said that his authorities might be able to consider the possiblity of supplying information to the Committee if all members were ready to provide data. He suggested that the Committee collect information on the basis of customs entries during a one-month period.
71. The representative of Hungary said that in spite of the difficulties in the first year of implementation of the Agreement, his authorities were ready to provide information if all other Parties were ready to do so. He stressed the need for a broad agreement on the quality of the information and the need for the comparability of the data.
72. The observer from New Zealand said that his authorities would be interested in any data. It was not necessary for each Party to operate in the same fashion.

73. The representative of the United States pointed out that it was to each Party to decide upon the methodology. The time period to be considered should also be left open. The exercise should not be over-ambitious and should be limited to appropriate sampling techniques.
74. The representative of Argentina questioned the relevance of the inclusion of this item in the annual review. He shared the view that the item should be kept under review and that each Party should define the methodology in terms of its own requirements. He reserved the position of his country in view of the delay in the application of the Agreement by Argentina until 1 January 1982.
75. The Chairman concluded that it was the view of a majority of the Parties that the exercise was a useful one, even with the limitations mentioned by several delegates. It was up to each Party to decide which methodology and time-limits it would use. The data should be provided on a percentage basis with reference to each valuation method and should be accompanied by an indication of the way they had been arrived at. It would be the intention of the Committee to include the data in the annual report to the CONTRACTING PARTIES. The data should be submitted to the secretariat at least three weeks prior to the next meeting of the Committee.

G. Report by the Chairman of the Technical Committee

76. The Chairman of the Technical Committee, Mr. Sawhney (India) stated that the report of the first session of the Technical Committee, which was held from 9 to 13 March 1981, was contained in CCC documents 27.180. Before the formal establishment of the Technical Committee, the CCC had taken a number of steps to give information concerning the new Agreement and to identify technical valuation aspects which required detailed consideration on a priority basis. The agenda for the first CCC meeting had been based on a list of technical questions which had been agreed upon in informal meetings held in GATT towards the end of 1980. It had also included questions relating to administrative measures and technical assistance earlier raised in the Interim Technical Committee. Arrangements were in hand for circulating details of national publications on valuation legislation, including valuation declaration forms. These could be of interest and assistance to administrations in adopting or implementing the Agreement in a harmonious manner. On technical assistance, the CCC secretariat was preparing a questionnaire as a basis for assessing the precise needs of developing countries so that available resources could be put to the optimum use. A good ground work had been laid for further consideration of a number of technical aspects of the Agreement which should yield positive results in the near future. The Technical Committee had discussed the concept of "sale" and had agreed that at the present stage it should compile a negative list of situations which would not be regarded as a sale. On the question of the acceptability of a price below prevailing market prices for identical goods, it seemed to be the consensus of the Technical Committee that, provided the four conditions set out in Article 1.1 were fulfilled, a price would have to be accepted even if it was lower than prevailing market prices. The Technical Committee had also briefly touched upon the questions of lower prices as a result of dumping

practices and the treatment of subsidized goods; these would be further examined in future sessions of the Technical Committee. Another important question related to the expression "sold for export to the country of importation"; while further detailed consideration at the technical level would undoubtedly be necessary, it seemed advisable to await additional experience before pursuing the question. The Committee also discussed the meaning of the expression "are distinguished" in the Interpretative Note to Article 1; it was agreed that duties and taxes of the country of importation included in the price paid or payable should be deducted in determining the customs value even if the importer should not claim the deduction, because these amounts would be known to and distinguishable by the customs. The Committee further discussed the question of the time element with regard to Articles 1, 2 and 3. There was general agreement in the Committee that Article 1 did not refer to a time extraneous to the transaction. However, insofar as Articles 2 and 3 were concerned, a time element was stipulated therein which required that the identical or similar goods were those exported at or about the same time as the goods being valued. Further documentation was being prepared by the CCC secretariat on these aspects, as well as on the questions of cash discount and interest for deferred payment. Another question relating to two other important aspects of the application of Articles 2 and 3 had also been discussed: the determination of identical and similar goods and the treatment of confidential information when the transaction value of one importer was used as the basis for valuation of the goods of another importer. The Committee had also considered several examples offered by the secretariat concerning the treatment of royalties and licence fees and would examine the issues further in its future meetings. Regarding the working method of the Technical Committee the intention was that matters where the Committee had arrived at conclusions would form the basis of draft advisory opinions or explanatory notes which the secretariat would prepare for the Committee to consider at its next session. Mr. Sawhney stated that an excellent start had been made in the Technical Committee. The next meeting of the Committee was to be held in September.

77. A number of delegations expressed their appreciation for the work undertaken by the Technical Committee and by the CCC secretariat. Moreover, the representative of Spain raised the question of the legal force that the results of the work in the Technical Committee should have. On that point the representative of the European Economic Community reserved his position and suggested that the question be dealt with later on, on the basis of experience and further reflexion. On this same point the Chairman of the Technical Committee said that this was an area where caution should be exercised. In his opinion, the decisions in the Technical Committee could not have the same legal force as the Agreement, the Protocol or the Interpretative Notes. However, if unanimity or consensus was reached, these decisions could be construed as something more than mere advice. This issue would receive the attention of the Technical Committee at its next meeting. No conflict between this Committee and the Technical Committee had to be feared as there were greater areas of complementarity than of possible conflicts.

78. The Chairman said that in matters where trade policy questions were involved, it would be up to the GATT Committee to deal with them.

H. Date and draft agenda for the next meeting

79. The Committee agreed to hold its next meeting on 4, 5 and, if necessary, 6 November 1981. The representative of the United States pointed out that a meeting of the Committee could be held previously to this agreed date, for example mid-July, if an urgent need arose.

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

(A) Accession of further countries to the Agreement
(B) 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)
(C) Annual review of the operation of the Agreement and annual report to the CONTRACTING PARTIES (Article 26)
(D) Use of various valuation methods by Parties
(E) Technical assistance
(F) Report by the Chairman of the Technical Committee
(G) Date and draft agenda for the next meeting
(H) Other business

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.

I. Other business

81. The representative of the European Economic Community said that the Agreement required the developed Parties to provide such technical assistance as developing country Parties might request. The EEC considered that it was in the interest of the Parties to go beyond the strict requirements of the Agreement and to envisage providing technical assistance to developing countries which were merely contemplating joining the Agreement. The EEC was planning a seminar in Latin America later this year, and to this effect discussions were held with authorities in certain Latin American countries. This seminar should be properly planned and co-ordinated with the various countries, prepared to give such technical assistance, and with the GATT and the CCC as well. This item should be put on the agenda as a permanent point in order that specific requirements for technical assistance could be reviewed. He made a plea to developing countries to examine their requirements and to come forward with their requests as soon as possible. In reply to a question from the representative of India, he said that the one-week seminar which was contemplated in Latin America would be open to non-signatories. The EEC had proposed to bear the cost of instruction but could not finance the total costs, because this would restrict its capacity to organize other seminars.

82. On another point made under "Other Business", the representative of the European Economic Community said that the EEC had prepared a number of questions concerning the implementation of the Agreement by certain Parties on the basis of the legislation which had been supplied. These questions went beyond the ones contained in the checklist. The EEC expected to discuss these questions in due course in due course in the first instance bilaterally with the Parties concerned but reserved its right to raise them subsequently in the Committee itself. The secretariat would be informed of the questions being raised in order that other Parties could be aware of them.

83. The Committee took note of the statements made and agreed to revert to the question of technical assistance at its next meeting.