

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

VAL/M/7
7 July 1983

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Committee on Customs Valuation

MINUTES OF THE MEETING HELD ON 10 MAY 1983

Chairman: Mr. J. Goizueta

1. The Committee on Customs Valuation held its seventh meeting on 10 May 1983.

2. The following agenda was adopted:

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A. Accession of further countries to the Agreement

3. There were no statements on this agenda item.

B. Technical assistance

4. The representative of the European Economic Community said that the Community had participated in a seminar on the Agreement on Customs Valuation in Brasilia on 25-29 April 1983 organized by the Latin American Integration Association (LAIA). In the seminar, there had been a fruitful exchange of views on the concepts of the Agreement and on its application. Subsequently, bilateral discussions had been held with Brazil on the implementation of the Agreement. He said that the Community's experience was that such seminars were useful both to the Community and to the developing countries involved. There tended to be a number of misconceptions about the Agreement that could be usefully dealt with in these seminars. One such misconception was that the Agreement prevented customs authorities from inquiring into the validity of the information given to them and that customs were obliged to accept the invoice price regardless of its credibility; in this regard, he felt that it had been possible to show that customs had adequate powers under the Agreement to

deal with cases where they thought that there was fraud and that the Agreement nowhere mentioned the invoice price. In regard to notions that countries were obliged to accept the customs value of goods as the basis for the release of funds under foreign exchange control regulations or for fiscal purposes, he felt that it had been possible to demonstrate that these were separate issues; the Agreement dealt with the value for customs purposes only and in no way restricted the rights of countries to adopt other approaches for exchange control or fiscal purposes. He said that the Community was involved in the planning of a number of further seminars. In addition, he informed the Committee that some individual EEC member States were organizing seminars that included, amongst other questions, the Agreement on Customs Valuation. In conclusion, he expressed his hope that developing countries that still had concerns about the implementation of the Agreement and were interested in this sort of technical assistance would contact the Community and other developed countries.

5. Informing the Committee of recent GATT secretariat technical assistance activities relating to the Agreement, the Director of the Technical Cooperation Division of the GATT secretariat said that the Customs Valuation Agreement had been one of the subjects covered in trade policy seminars for government officials and also representatives of the private sector held since the beginning of 1982 in Bolivia, Chile, Haiti, Ivory Coast, Pakistan, Senegal, Singapore and Venezuela, as well as in seminars organized for the member States of ASEAN and LAIA. Members of the GATT secretariat had also participated in two specialized seminars on customs valuation, an ECOWAS Working Group on Customs Valuation held in Benin in July 1982 and the ASEAN seminar held in Manila in December 1982. In addition the GATT secretariat had been active in briefing customs officials of developing countries visiting Geneva on the provisions of the Agreement and on developments in its implementation.

6. The representative of Austria, referring to the training courses on customs matters run by the Austrian customs authorities since 1966, said that the twenty-first such course would be held in 1983. The valuation part of the courses covered the Brussels Definition of Value as well as the new Code, since many developing countries still applied the BDV. He felt that it would be useful for those countries if the secretariat could prepare a paper comparing the BDV and the GATT Code, bringing out the greater simplicity of the new valuation system.

7. The observer from the Customs Cooperation Council said that for the last session of the Technical Committee, held 7-11 March 1983, the CCC secretariat had prepared a summary of the replies to a questionnaire that had been sent to some ninety developing countries with the aim of eliciting information that would help in determining the best use of available resources in a technical assistance programme. Since so far less than 25 per cent of the administrations approached had replied, the Technical Committee had requested the CCC secretariat to take follow-up action with those countries that had not yet replied so that a more complete picture of the needs of countries could be obtained. He urged developing countries interested in technical assistance to indicate in specific terms their needs so that developed countries and relevant international organizations could make judgements on the best use of their resources. He referred to reports given in the Technical Committee by a number of delegations on

their technical assistance activities which were recorded in paragraphs 53-64 of the Technical Committee's report (CCC document 29.960). In conclusion, he said that the CCC had been pleased to participate in the LAIA seminar on customs valuation held in Brasilia in April 1983. He felt that the exchange of ideas and the identification and discussion of problems in such seminars could go far in leading to mutual understanding and acceptance of the Agreement.

8. The representative of the United States said that, as mentioned at the Committee's March meeting, the United States was planning to hold a training seminar on valuation; this would be held in the period 9-18 August 1983. She also indicated that the United States had been pleased to participate in the LAIA seminar, and looked forward to participating in further such regional seminars.

9. The representative of Spain said that the Spanish Ministry of Customs held an annual seminar on customs techniques in general, including customs valuation, with some 30-36 representatives from Latin America. He added that in recent months a number of officials from Latin America had come to Spain in the context of bilateral cooperation agreements to discuss the GATT Code.

10. The Committee took note of the statements made on technical assistance.

C. Information on implementation and administration of the Agreement

(i) European Economic Community

11. The representative of the United States, referring to the EEC Commission Regulation amending the system of simplified procedures for the determination of the customs value of certain perishable goods circulated in document VAL/1/Add.2/Suppl.4, reiterated the concern of her delegation regarding the full consistency of these procedures with the Agreement. She said that the United States would be monitoring this matter very closely and would like an opportunity to revert to it should any problem arise.

12. The representative of the European Economic Community said that his delegation was entirely satisfied that the simplified procedures under discussion were fully consistent with the Agreement. The purpose of the new Regulation was to extend the number of products covered by the system. This had been done at the request of the trade, representing both importers and exporters. The system simplified the life of importers, as well as that of the customs, in cases where goods were sold on consignment. It provided a very simple system for applying the deductive method of valuation, under which customs value was known by importers for a specified period. Use of the system by an importer was optional; it did not remove any of his rights under the Agreement. The only condition on an importer opting to use the system was that he must use it consistently. If there were any specific questions regarding the system, his delegation would be happy to deal with them bilaterally or in open forum.

(ii) Romania

13. Responding to a question from the representative of the European Economic Community about the significance of the adjustment by Romania to the "customs valuation coefficient" referred to in VAL/1/Add.8/Suppl.1, the representative of Romania said that the customs valuation coefficient was a factor used in the calculation of the customs value of goods imported into Romania. The coefficient was the same as the exchange rate, and had been adjusted consequent on a change in the exchange rate.

(iii) South Africa

14. Following confirmation by the observer from South Africa that it remained the intention of his country to apply the Agreement from 1 July 1983, the Committee agreed that it would plan to undertake an examination of the South African legislation and replies to the checklist of issues at its first meeting in 1984.

D. Report on the work of the Technical Committee

15. The observer from the Customs Co-operation Council said that he was reporting on the work of the Technical Committee on Customs Valuation at its fifth session held on 7-11 March 1983 on behalf of Mr. N.S. Foldi (Australia) who had been elected Chairman of the Technical Committee at that meeting and was unfortunately unable to be present to give the report. The report of the session was contained in CCC document 29.960. The meeting had been attended by all Parties except for two and by observers from twenty-eight other countries. In regard to the request made by the Committee to the Technical Committee to recommend methodologies for collecting data on the extent of the use of the various valuation methods under the Agreement, the Technical Committee had drawn up a report, which had been reproduced in document VAL/W/17, on the basis of a draft prepared by a small Working Party and in the light of replies to a questionnaire and comments in the Technical Committee itself. With respect to its other activities, the Technical Committee had adopted the following texts:

- (a) a further three examples to add to the Commentary on Identical and Similar Goods for the Purposes of the Agreement together with an introductory paragraph to the examples contained in the Commentary;
- (b) a Case Study on the Application of Article 8.1(d) of the Agreement in respect of the treatment of the proceeds of resale accruing to the seller, including an example to show the actual calculation of the customs value;
- (c) a Commentary on the Treatment of Goods Returned after Temporary Exportation for Manufacturing, Processing or Repair, designed to find wherever possible a transaction value for such goods;
- (d) a sixth Advisory Opinion on Royalties and Licence Fees, dealing with the situation where imported goods could be resold either with or without a trademark owned by the foreign supplier; and

- (e) a third (and probably, for the time being, last) Advisory Opinion on the Treatment of Cash Discount under the Agreement - dealing with the situation where a discount was made available to a buyer who had not made payment for the goods at the time of valuation.

16. Continuing his report, the observer from the Customs Co-operation Council said that the Technical Committee had held in-depth discussions on a number of subjects before it for the first time; these concerned the treatment of split consignments, storage charges, package deals and confirming commission. He hoped that instruments dealing with these subjects could be adopted at the next session of the Technical Committee. The question of flexibility under Article 7 had also been considered; debate on this had given rise to three new questions for inclusion in the programme of future work - the hierarchical order in applying Article 7, the use of data from foreign sources in applying Article 7, and the use under Article 7 of valuation methods mentioned in Article VII of the GATT but not in the Agreement. Other subjects in the programme of future work included the scope of insurance under Article 8.2(c), the costs of activities undertaken by the buyer on his own account, the treatment of fraudulent documents, the meaning of the term "at or about the same time" in Articles 2 and 3, and adjustments for commercial level under Articles 2 and 3. The last three items had arisen from questions raised by developing countries during technical assistance seminars. The Technical Committee had also decided that it would review its work programme and determine priorities on the basis of a conspectus of technical questions so far raised, to be prepared by the CCC Secretariat. In conclusion, he said that in addition to electing Mr. Foldi as Chairman for 1983, the Technical Committee had elected two Vice-Chairmen, Mr. Haaland (Norway) and Mr. Sampaio (Brazil).

17. The Committee took note of the report presented by the observer from the Customs Co-operation Council.

E. Use of various valuation methods by Parties

18. The Chairman recalled that, following a discussion at the Committee's second meeting on this matter, a number of Parties had submitted information on the use in their countries of the various valuation methods provided for under the Agreement (VAL/W/5 and Addenda 1-8). Following exchanges of view at subsequent meetings on the desirability of collecting additional and more detailed information, including in regard to the volume of trade and the use by all Parties of an identical time period, the Committee had decided at its fifth meeting to request the Technical Committee to advise on methodologies for determining more precisely the use by Parties of the various valuation methods provided for under the Agreement (VAL/M/5, paragraphs 19-22). The report of the Technical Committee on this matter, which had been drawn up at the Technical Committee's fifth meeting, held on 7-11 March 1983, was before the Committee in document VAL/W/17.

19. The representative of the European Economic Community, noting that the Committee would have to select the period to be covered by any new data collection exercise, said that a representative period that was not affected by seasonal fluctuations should be chosen. Since seasonal fluctuations were likely to vary from country to country according to

differing climatic and consumption patterns, it might be difficult to find a satisfactory single period. It might thus be necessary to conclude that participating countries should themselves select a representative period. Given this context, the suggested period of two weeks might not prove to be sufficient; a somewhat longer period or two periods in the year might be considered. Noting that the recommended methodology referred to the use of "actual" or "estimated" numbers of import entries and that no indication had been given as to how estimates might be arrived at, he felt that some countries might find it necessary to use some kind of statistical sampling method, constructed with the advice of statisticians so as to ensure a representative sample. Also, the Committee might need to consider ways of dealing with problems arising from timing differences between customs entries that were settled at the time of importation of the goods (generally those based on transaction value) and those settled with some delay (often those under the other valuation methods). Thus, he was of the view that it might not always be possible to lay down specific periods and rules applicable in all circumstances. It also had to be recognized that a new exercise attempting to cover over 51 per cent of import entries would impose considerable burdens on customs administrations. As regards the timing of a new exercise, he was of the view that it should not be held before 1984 and that it might be worth considering whether it could with advantage be held somewhat later when a number of additional countries could be expected to be applying the Agreement. In conclusion, he said that, while the Community had no doubts about the usefulness of a new exercise, there were a number of methodological and policy issues that needed further reflection before a decision could be taken.

20. The representative of the United States said that her delegation also felt that a new data collection exercise would be quite useful. In her view the Technical Committee's advice on methodology struck a good balance between the need to produce useful information and the need to avoid undue administrative burdens. She agreed with the view that it might be desirable to consider postponing a new exercise until there were additional countries applying the Agreement, including those Parties presently invoking Article 21 or not applying the Code under other provisions.

21. The Committee agreed to revert to the question of the use of various valuation methods by Parties at its next meeting.

F. Treatment of interest for deferred payment; valuation of computer software

22. The Chairman recalled that at its last meeting, the Committee had exchanged views on the substance of the revised proposals on the treatment of interest for deferred payment (VAL/W/13/Rev.1) and the valuation of computer software (VAL/W/14/Rev.1), the record of the discussion being contained in VAL/M/6, paragraphs 19-35. The Committee had agreed that further time was required for reflection on the two proposals, including on the points made during the meeting and that the Committee would return to these matters at its next meeting. At its last meeting, the Committee had also had before it a secretariat note, VAL/W/16, dealing with some legal aspects. He suggested that the Committee might first address itself to the substance of the proposals and then take up the legal aspects.

23. The representative of Canada, recalling that at the Committee's last meeting his delegation had raised a few questions in regard to the proposal on the treatment of interest for deferred payment, said that the responses his delegation had received to these questions and a more detailed review of the matter had led his delegation to the conclusion that it could accept the proposal on this matter contained in document VAL/W/13/Rev.1. Regarding the proposal on computer software, he said that his delegation had had detailed discussions on this question bilaterally with a number of delegations. While Canada had no real problems with the objectives of the proposal on this matter contained in document VAL/W/14/Rev.1, his delegation needed more time to reflect on the coverage of the proposal and on its implications for Canada. He hoped to be in a position to comment more definitively at the Committee's next meeting.

24. The representative of Argentina said that his delegation could support the proposal on the treatment of interest for deferred payment, but had some concerns about its implications in regard to the issue of the interpretation of codes. Argentina, however, could support the proposed methodology provided there was a full consensus of all Parties in favour of it. With respect to the other proposal, he said that in Argentina the valuation of software included all the values that might influence the product itself. In fact, in Argentina duties were levied at different rates depending on whether the product was recorded upon or not. Thus, it was considered that the value of all software recorded on a carrier medium was part of the customs value of the imported merchandise because it constituted an integral and indivisible part of the good. In his view, acceptance of the proposal on software would entail binding a tariff concession without any reciprocity. His delegation could not agree to such a proposal.

25. The representative of Hungary said that her delegation had no difficulties with the substance of the proposal on the treatment of interest charges for deferred payment. In regard to the proposal on computer software, her delegation could accept the proposed valuation-based approach if that were the consensus that emerged among Parties.

26. The representative of Switzerland, addressing the substantive aspects of the proposals only, said that his delegation continued to support the proposal on the treatment of interest for deferred payment. In regard to the proposal on computer software, his delegation recognized that the matter was complex, that there could be some conceptual aspects giving difficulties to some delegations, and that the proposal was perhaps not the ideal solution. However, his delegation strongly supported the thrust of the proposal. It also had to be recognized that practical problems in the valuation of software could arise, which could be increased by possible future developments notably concerning the transfer of software by telecommunications. It might be necessary for the Committee in the future to examine these practical problems further.

27. The representative of New Zealand said that his delegation had no problem with the proposal on the treatment of interest for deferred payment. However, his delegation did have some reservations regarding the proposal on computer software, related not so much to its substance as to its proposed method of implementation should a consensus be reached. His delegation would like to consider this aspect further.

28. The representative of Spain said that his delegation could accept the contents of both the proposal on interest for deferred payment and that on computer software.

29. Addressing certain legal aspects of general concern to his delegation, the representative of Switzerland stressed the need for the Committee to be fully aware of the legal implications of any decision that might be taken in regard to the proposals. He considered that the Committee was the first of the MTN Code Committees that was envisaging a decision interpreting substantive provisions of a Code. The decisions of the Committee on Anti-Dumping Practices, referred to in document VAL/W/16, had been taken in special circumstances and with a very specific objective. Other Code Committee decisions had essentially concerned the internal workings of the Committees concerned. In the view of his delegation, any decisions on the proposals before the Committee should reflect the legally-binding character of the GATT and contain legally-binding wording; the national legislation of Parties would have to be amended correspondingly. Not only should the practices of each Party be in conformity with such decisions, but Article 11 should be made applicable as well.

30. The representative of India said that the views of his delegation on the substance of the two proposals were recorded in document VAL/M/6, paragraph 23. He recalled that, whilst his delegation could not accept the proposal of the United States on computer software, it could accept the substance of the EEC's proposal on interest charges. He clarified, however, that his delegation's views on the EEC's proposal were subject to certain clarifications being received on the legal implications of Committee decisions and were without prejudice to this question. Stressing the importance that his delegation attached to the legal aspects, not only for the Agreement on Customs Valuation but also for other MTN Codes, he addressed the secretariat note, VAL/W/16. In regard to the second sentence of paragraph 3 of the note, he said that, although he had no doubt that the Committee was competent to interpret the Agreement, he was not sure that in this context it was appropriate to mention Article 18, which mainly dealt with institutional questions. Turning to the references made in paragraphs 3 and 7 of VAL/W/16 to certain decisions taken by other Code Committees, he expressed the view that neither the Decision nor the Understanding of the Committee on Anti-Dumping Practices in any way legally altered the position of signatories in terms of the provisions of the Anti-Dumping Code. The Decision on Article 13 of the Code did not result in any change of rights or obligations or any special dispensation for developing countries; it was merely an attempt to put on record what Article 13 meant. Similarly, the Understanding on Article 8:4 of the Anti-Dumping Code, which was rather tentative in nature, had been intended merely to facilitate the resolution of a particular problem that had arisen. Nor did the other decisions cited in VAL/W/16 have the effect of amendments. In his view, if one of the decisions that was being proposed in the Committee on Customs Valuation were adopted, it would have the effect of amending the Agreement on Customs Valuation, altering one of its most basic features - the concept of transaction value. He could not accept any inference from document VAL/W/16 that a decision by the Committee in this case would be in any way analogous to the decisions taken by the Committee on Anti-Dumping Practices. If the proposal were to be adopted, it would have to be considered in his view under the amendment provision of Article 27.

Continuing his observations on paragraph 3 of document VAL/W/16, the representative of India said that the reference to interpretations of the General Agreement on the basis of Article XXIII of the GATT could be usefully clarified. He presumed that it referred to the evolution of "case law" on the basis of the adoption of panel reports by the CONTRACTING PARTIES. In regard to paragraph 6 of VAL/W/16, he considered that it was necessary to examine in greater detail the extent to which decisions having similar practical effects to amendments had been taken by the CONTRACTING PARTIES. In regard to paragraph 9 of VAL/W/16, he agreed that future signatories would be bound by decisions taken by the Committee prior to their adherence to the Agreement.

31. The representative of Argentina said that his delegation had doubts about the relevance of the Understanding on Article 8:4 of the Anti-Dumping Code to the present proposals. He also was not clear about the reference in paragraph 3 of VAL/W/16 to interpretations on the basis of Article XXIII of the General Agreement. If it meant that the adoption of panel reports amounted to decisions on interpretation, it would be overestimating the status of such panel reports, especially as they were intended to be specific to the individual cases considered. In regard to paragraph 6, he had doubts about the extent to which decisions had been taken having the same effect as amendments. He was of the view that decisions in Code Committees should not lead to changes in the balance of rights and obligations. In conclusion, he said that his delegation reserved its position on document VAL/W/16, in particular in regard to the legal arguments contained in it.

32. The representative of the United Kingdom speaking on behalf of Hong Kong said that his delegation supported the proposal on interest charges and could join a consensus on the proposal on computer software if such a consensus developed. Turning to the legal aspects, he said that in an assessment of these matters in GATT both legal texts and practice had to be taken into account. In his view, the legal aspects should only be considered if a consensus was reached on one or both of the proposals; a procedure should not be established on a hypothetical basis. If agreement was reached on the substance of a proposal, it would be necessary to decide if the proposal was an interpretation or an amendment. His preliminary view was that the proposal on software amounted to an amendment. In regard to document VAL/W/16, he agreed with the representative of India that Article 18 of the Agreement did not specifically give the Committee "wide-ranging powers"; it only defined the purpose of the Committee. This was not to suggest that the Committee did not have the power to interpret the Agreement, but only that the specifics of that power were not spelt out. He was of the view that there were no appropriate precedents for the sort of decisions that were being proposed; the relevance of the decisions taken by the Committee on Anti-Dumping Practices was not clear. In regard to the legally-binding character of a decision, he said that Parties would have to comply with the terms of a decision, although how they did this would be a matter for each Party to determine. In conclusion, he said that, if the Committee were to reach the stage of needing an amendment, it would be important to consider carefully the precedent that would be set for other Codes and whether some form of liaison with other Code Committees would be necessary.

33. The representative of Brazil said that the difficulties that his delegation had in accepting both of the proposals were set out in the minutes of the Committee's last meeting (VAL/M/6). Turning to document VAL/W/16, he said that in relation to paragraph 3 he could not agree that Article 18 of the Agreement gave the Committee "wide-ranging powers". It provided for the Committee to carry out "such other responsibilities as may be assigned to it by the Parties". In each case, the Parties should determine what were the responsibilities that they would wish the Committee to discharge. One responsibility that the Committee could be expected to undertake would be that of interpreting the Agreement, but the Committee should make it clear when it was doing so. In regard to paragraph 6 of VAL/W/16, he said that he was not sure that the decisions taken at the end of the Tokyo Round could be considered amendments of the General Agreement. On paragraph 7, he said that he had the same doubts as those expressed by the representative of India. He also noted that a protocol to the Agreement had been adopted as the legal form for introducing certain special provisions for developing countries, and that, as indicated in the preamble to the Protocol, this form had been employed because the provisions of Article 27 of the Agreement relating to amendments had not at that time entered into force. He was of the view that both the proposals before the Committee would have very important substantive effects and should be treated as proposed amendments rather than interpretations.

34. The representative of Australia said that the position of his delegation was recorded in paragraph 24 of VAL/M/6. In regard to the question of the power given to the Committee by Article 18 of the Agreement, he suggested that the concerns of some delegations might be met by amending the relevant portion of paragraph 3 of VAL/W/16 to read that Article 18 "gives the Committee potentially wide-ranging powers", since the Article provided for the Committee to carry out "such other responsibilities as may be assigned to it by the Parties".

35. The representative of the United States said that it was clear that the Committee of an MTN Agreement related directly to certain provisions of the General Agreement would not be free to introduce through a decision modifications to its Agreement that would be inconsistent with those provisions of the GATT. However, where all signatories were agreed on amplifying certain obligations in a way not inconsistent with the General Agreement, the United States delegation did not see any reason why this could not be done through a Committee decision. Under the provisions of Article 18 of the Agreement, the Parties could assign this type of responsibility to the Committee on Customs Valuation. Commenting on document VAL/W/16 and certain remarks made on it by other delegations, the representative of the United States said that her delegation had regarded the third sentence of paragraph 3 relating to decisions taken by other Code Committees to interpret their respective Agreements as a statement of fact and not a comment on the similarity between those decisions and the proposals under consideration in the Committee. The view of her delegation was that each Code Committee had the right, under the power given to it under its MTN Agreement, to take decisions on the interpretation of its Code in whatever manner was considered appropriate and necessary by that Committee. Her delegation considered that the Codes had provided the Committees with broad decision-making powers, that could be used to develop a body of law relating to their respective Agreements. The Committees'

powers had been modelled on the decision-making authority of the CONTRACTING PARTIES themselves, which was very broad. Turning to views expressed to the effect that decisions should not be employed to introduce substantive changes having the effect of amendments, she referred to paragraph 6 of VAL/W/16 and said that the CONTRACTING PARTIES had used decisions to make very broad law in the GATT, including law that could be enforced through dispute settlement procedures. One noteworthy case was the Decision of 28 November 1979 on the Enabling Clause, which was of fundamental importance in regard to the nature of rights and obligations under the GATT. Her delegation believed that Code Committees could make similarly far-reaching decisions. In her view, the Committee on Customs Valuation had the power to make decisions of a substantive nature that were binding, Parties being under an obligation to ensure the conformity of their domestic legislation with such decisions.

36. The representative of the European Economic Community said that it was the view of his delegation that the Committee had considerable discretion in regard to how it might wish to give effect to the proposals if agreement were reached on their substance. He felt that it was important for the Committee to try to reach an understanding on how it would implement the proposals, because it was close to a consensus on at least one of them. He believed that if the proposals were regarded as amendments, the amendment provision of Article 27 would have to be used and it would be necessary to draw up procedures to give effect to that provision. The reason why these proposals were now put forward as decisions rather than amendments was that delegations had appeared generally to favour dealing with these issues as interpretations so to avoid the need to start amending the Agreement so early in its life and also to avoid setting a precedent regarding amendments. He hoped that it could be agreed that the Committee could take decisions interpreting the Agreement provided that the interpretations were not inconsistent with the provisions of the Agreement. He considered that it was in the interest of the Committee to have a certain amount of flexibility, which proceeding by way of an interpretation would provide. For example, it might be desirable to employ interpretations to deal at this stage with any problems that arose; it would then be possible for the Committee at a later stage to take stock in the light of experience and consider whether the Agreement should be amended to reflect the decisions that it had taken. In his view, it was open to the Committee to agree by consensus on decisions covering both issues or on a decision covering one of them. Such decisions would not necessarily have the same legal force as a provision of the Agreement or an amendment to it; but they would amount to a commitment by the Parties to apply them and, where necessary, to amend their legislation to enable them to do so.

37. Concluding the discussion, the Chairman noted that the Committee had had a further useful exchange of views. He suggested that the Committee take note of the statements made; that interested delegations engage in informal bilateral contacts with a view to reaching, where possible, consensus on both the substantive and legal matters under consideration; and that the Committee revert to these matters at its next meeting.

38. It was so agreed.

G. Annual report to the CONTRACTING PARTIES

39. The Chairman said that normally the Committee adopted its annual report to the CONTRACTING PARTIES at its autumn meeting, in conjunction with its annual review of the implementation and operation of the Agreement. However, since the Council, in taking action on the Ministerial Decision on MTN Agreements and Arrangements (L/5424, page 11), had invited the MTN Committees and Councils to present their annual reports not later than 10 October 1983, it was proposed that the Committee prepare its annual report to the CONTRACTING PARTIES at this meeting. The annual review of the implementation and operation of the Agreement could then be undertaken at the Committee's November meeting in accordance with normal practice. He said that in order to facilitate the Committee's preparation of its report, the secretariat has prepared a draft which had been circulated in VAL/W/19. The draft contained the information normally included in the Committee's annual reports to the CONTRACTING PARTIES on developments in the work of the Committee and operation of the Agreement. The draft also addressed the questions of the adequacy and effectiveness of the Agreement and the obstacles to acceptance of it by interested parties, since these points were to be the focus of the review of the MTN Agreements and Arrangements by the CONTRACTING PARTIES.

40. The Committee adopted the text of document VAL/W/19 as its report to the CONTRACTING PARTIES, and agreed that the secretariat in consultation with the Chairman would complete the document to reflect the work of the Committee at its present meeting.

H. Other business

(i) Panelists

41. The Chairman said that nominations of persons available for panel service in 1983 had been received from the European Economic Community, Finland, Japan, Norway, Sweden, the United Kingdom on behalf of Hong Kong and the United States. He requested other Parties to make such nominations in accordance with paragraph 2 of Annex III to the Agreement.

(ii) Dates and draft agendas of the next meetings

42. The Committee noted that the next meeting would be held on 9-11 November 1983, as agreed at its March 1983 meeting. The Committee agreed to set aside tentatively 3-4 May 1984 for its first meeting in 1984.

43. The Committee agreed that the draft agenda of its next meeting would include the following items:

- A. Accession of further countries to the Agreement
- B. Technical assistance
- C. Information on implementation and administration of the Agreement
- D. Report by the Chairman of the Technical Committee
- E. Use of various valuation methods by Parties
- F. Treatment of interest for deferred payment; valuation of computer software
- G. Time standard for test values under Article 1.2(b) of the Agreement
- H. Annual review of the implementation and operation of the Agreement
- I. Other business, including dates and draft agendas of next meetings