

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
VAL/Spec/18
4 December 1985

Committee on Customs Valuation

DRAFT MINUTES OF THE MEETING HELD ON 13 NOVEMBER 1985

Chairman: Mr. R. Hochörtler (Austria)

1. The Committee on Customs Valuation met on 13 November 1985.
2. The following agenda was adopted:

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A. Accession of further countries to the Agreement

3. The Committee had before it a report from the Technical Committee (VAL/W/32) on a communication from the adviser on customs valuation to the Customs of Belize that the Committee, at its special meeting of 9 May 1985, had requested the Technical Committee to examine. Copies of further communications received by the Chairman from this person were also made available. The Committee also had before it a communication (VAL/W/30) from the observer from Ecuador giving the views of his Government on the questions that had been the subject of the informal consultations with observers held on 16 April 1985.

4. The Chairman recalled a number of developments since the special meeting of the Committee of 9 May 1985, held in response to a request from the CONTRACTING PARTIES, which had focussed on factors affecting the accession of further countries (VAL/M/12). First, he was encouraged that the Working Group of the GATT Contracting Parties, which had considered the outcome of the Committee's special meeting and those of the committees and councils of the other MTN agreements, had concluded in the report, as far as the Valuation Agreement was concerned, that "the members of the Group shared the favourable evaluation of this Agreement by the Committee on Customs Valuation" (L/5832/Rev.1, paragraph 26). The report had been adopted by the GATT Council in July 1985. Second, he noted that Portugal had accepted the Agreement on 14 October 1985. On behalf of the Committee, he welcomed Portugal as a member.

5. The representative of Portugal said that his country was putting its national legislation in conformity with the provisions of the Agreement.

6. The representative of Spain said that his country would send a communication lifting its invocation of Article 21.1 and 21.2 by the end of the year. The legislation to be applied would be that of the European Communities with effect from 1 January 1986.

7. In later discussion, the representative of the United States, noting that the Agreement had been signed only by the European Economic Community and not by the individual member States, wondered whether Portugal and Spain would be withdrawing from the Agreement as separate Parties when they became members of the EEC.

8. The representative of Spain said that this would have to be checked but he personally believed Spain would be in the same position as other EEC member States.

9. The representative of the European Communities said that his initial reaction was that Portugal and Spain would assume obligations under the Agreement as part of the Community from 1 January 1986 and might therefore give notice of withdrawal from the Agreement as separate Parties prior to that date.

10. The Committee took note of the statements made. In regard to the communications from the adviser on valuation to the Customs of Belize, the Committee took note of the report of the Technical Committee, and agreed that the secretariat would communicate it to the Belize authorities. As regards the recent submissions, the Committee noted that it would be open to any interested member or observer to revert to this matter at the Committee's next meeting, after they had had an opportunity to examine these submissions.

B. Technical assistance

11. The Committee had before it the latest document summarizing technical assistance activities prepared by the CCC Secretariat (VAL/W/29/Rev.1), and a communication from Bangladesh (VAL/15) which the Bangladesh authorities had asked to be circulated to members. Among other things, this communication indicated the interest of Bangladesh in receiving technical assistance in connection with the Agreement.

12. The representative of the European Communities said that the Community was continuing to make efforts towards organizing seminars in English and

French in African countries in 1986. In regard to the Bangladesh request, there was a possibility that the Community would get in touch to offer some assistance.

13. The observer for the Customs Co-operation Council, updating the section on "Future Programme" in document VAL/W/29/Rev.1 (page 5), said that the fourth training course was presently underway in Cameroon. As for the fifth training course, practical difficulties had arisen in holding it in Kenya as previously envisaged and consultations were underway with other countries in the region to see whether it could be held in another location.

14. The representative of Canada said that his authorities were sympathetically studying the request of Bangladesh with a view to developing a plan to provide technical expertise. His authorities expected to be in touch with Bangladesh shortly.

15. The representative of New Zealand said that his authorities were sympathetically considering the Bangladesh request and, for this purpose, it would be helpful to have further details of Bangladesh's needs.

16. The representative of Australia said that her country no longer conducted the courses on customs administration in the form described on page 5 of VAL/W/29/Rev.1. Australia was studying the Bangladesh request and expected to be in a position to respond soon.

17. The Committee took note of the statements, including in regard to action to meet the Bangladesh request.

C. Report of the Technical Committee

18. Reporting on the Tenth Session of the Technical Committee on Customs Valuation, held in Brussels from 30 September to 4 October 1985, the Chairman of the Technical Committee, Mr. Haaland (Norway), first referred to a number of earlier developments in the period since the Committee on Customs Valuation's last meeting. At its annual session, the Customs Co-operation Council had taken note of the work done by the Technical Committee at its Eighth and Ninth Sessions. The instruments prepared during these meetings had been included in the Third Amending Supplement to the CCC Compendium on the Valuation Agreement, bringing to forty-four the number of instruments prepared by the Technical Committee and incorporated in the Compendium. To make the Compendium even more comprehensive, the Decisions taken by the Committee on Customs Valuation had also been included. Also in connection with the circulation of information, he said that the results of the Committee on Customs Valuation's special meeting on the adequacy and effectiveness of the Agreement and on the obstacles to its acceptance had been communicated to Council Members in CCC Doc. 32.840.

19. Turning to the Technical Committee's work at its Tenth Session, the report of which was in CCC document 32.940, he said that, as regards technical assistance, the Technical Committee had taken note of the revised information document (Doc. 32.848) setting out previous activities and the programme of future work in the field of technical assistance. Countries providing technical assistance had been invited to regularly furnish the Council Secretariat with detailed information on their activities. It had been decided that a completely revised and updated information document should be published whenever the information compiled justified a reprint.

The Technical Committee had also taken note of the Customs Co-operation Council's various technical assistance activities, including the third Customs Valuation course held from 17-28 June at Council Headquarters in Brussels. The course had been attended by twenty-seven English-speaking participants from seventeen countries and international organizations.

20. As to the report on false invoicing (VAL/W/32), prepared by the Technical Committee at the request of the Committee on Customs Valuation (see item A above), he said that this report analysed the replies of those countries which had participated in the survey of administrations on the problems posed by false invoicing as submitted by the Customs Administration of Belize, and drew certain conclusions according to which the provisions of Article 17 of the Agreement and its Protocol were sufficient to resolve satisfactorily the questions raised by Belize. It had also been agreed that the relevant provisions in the Agreement should be supplemented by national measures designed specifically to eliminate fraudulent practices and to combat fraud in a broader sense. In this respect, attention was drawn to the resources and instruments for mutual administrative assistance which existed at international level. He was confident that the substance of the report was such as to allay the fears expressed by the Belize Administration.

21. Continuing his report, the Chairman of the Technical Committee said that, in addition to the report on false invoicing just mentioned, the Technical Committee had adopted two new instruments concerning technical matters:

- An Explanatory Note examining the question of relationship under Article 15.5, read in conjunction with Article 15.4. In this difficult area of valuation technique, the Committee had agreed on the interpretation to be given to the provisions of Article 15.5, in relation to each of the criteria set out in Article 15.4. This Explanatory note supplemented Case Study 3.1 on restrictions and conditions in Article 1 in dealing with a very important aspect of the Agreement.
- A Commentary dealing with the meaning of the term "restrictions" in Article 1.1(a)(iii) of the Agreement. In addition to specifying the meaning of the term in this context, the Commentary provided an example of restrictions which substantially affect the value of the goods, and an example of restrictions which do not produce this result.

22. He said that the Technical Committee had examined a number of other technical questions. They concerned:

- Treatment of quota charges under Article 1. The Technical Committee had decided that the treatment of quota charges should be studied with reference to actual cases to be submitted by administrations.
- Terms in Article 8.1(b)(iv): development. The Technical Committee had taken note of the manner in which the Committee on Customs Valuation had settled this question at its twelfth Session. It had decided to insert an item entitled "Practical application of Article 8.1(b)(iv)" in Part III of the Conspectus of Technical Valuation Questions (questions raised, but not yet included in the programme of future work).

- Application of test values: adjustment for differences in level, quantity and the other elements mentioned in Article 1.2(b). Following the preparation of Commentary 10.1 on adjustments for differences in commercial level and quantity, the Canadian Customs Administration had identified a problem which had apparently not been addressed by the Commentary. During the discussions, it had emerged that the problem posed was purely hypothetical, and the Committee had decided to withdraw this item from its programme of work, on the understanding that it would be reconsidered should the need arise.
- Treatment of rented or leased goods. The Technical Committee had before it a document prepared by the CCC Secretariat describing the various methods of valuation which could be applied to rented or leased goods, in accordance with the principles laid down in the Agreement. After examining this question, the Technical Committee had instructed the Secretariat to prepare a new document for the next session, reflecting the comments received in writing and those made during the Session.
- Application of Article 7 of the Agreement. Noting the value of the information received on this subject, the Technical Committee had decided to retain this item on its programme of future work and continue the circulation of the relevant documentation. It had also decided that, during the intersession, administrations should reflect on how this item would be handled in the future.

23. Referring to the future work of the Technical Committee on Customs Valuation, he said that, in addition to the questions already referred to in the previous paragraph, the following items had been placed on the agenda for the Eleventh Session, to be held from Monday 3 March to Friday 7 March 1986:

- Examples to illustrate the Advisory Opinion on the meaning of the expression "sold for export to the country of importation";
- Study of organizational requirements for the implementation of the GATT Valuation Agreement;
- Treatment of quantity discounts.

The Technical Committee had also instructed the CCC Secretariat to update the Conspectus of Technical Valuation Questions, taking into account the decisions made at the Tenth Session. In addition, the observer for the International Chamber of Commerce had advised the Committee that the Chamber would like to submit a document concerning the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment, the aim being to specify the scope of the expression "provided that this is distinguished from the cost or the value of the carrier medium". In conclusion, he said that the Session had proved useful not only with regard to the adoption of new instruments, but also in that it had laid firm foundations for future sessions.

24. The Committee took note of the report of the Technical Committee and expressed appreciation of the continued valuable work of that body.

25. Noting that this would be the last meeting of the Committee on Customs Valuation that Mr. O'Loughlin would attend as observer for the Customs

Co-operation Council, the Chairman expressed on behalf of the Committee its appreciation for the contribution Mr. O'Loughlin had made to the implementation and operation of the Agreement during his five years as Director of Valuation in the CCC Secretariat. During this first and critical five years of operation of the Agreement, Mr. O'Loughlin's contribution had been reflected not only in the valuable work of the Technical Committee but also in other CCC activities relating to the Agreement, such as its training course and seminars, the comparative study of the BDV and the GATT Agreement and the work on the economic implications of the Agreement. Mr. O'Loughlin had also made valuable contributions to the work of the Committee on Customs Valuation. He extended to Mr. O'Loughlin the Committee's thanks and its best wishes to him in his future functions back in his home country.

26. Mr. O'Loughlin recalled that prior to the coming into force of the Valuation Agreement many people had doubted whether an agreement that wedded the GATT and the Customs Co-operation Council in this way could work. Nevertheless, with the aid of hard work and goodwill on the part of the delegations in the two Committees and of the secretariats of the two organizations, it had worked. He was confident that the excellent co-operation between GATT and the Customs Co-operation Council would continue and that his successor would be welcomed by this Committee as he had been. In conclusion, he expressed his appreciation for having had the opportunity to work on the Agreement during these five years, which had been for him an experience that he would always value.

27. The representative of the secretariat agreed with the sentiments expressed by the Chairman about Mr. O'Loughlin's contribution. He also asked Mr. O'Loughlin and the Chairman of the Technical Committee to convey to Mr. O'Loughlin's successor, Mr. Doua-Bi, the GATT secretariat's congratulations on his election and its assurance that it would do all it could to continue the very good collaboration it had had with the Customs Co-operation Council and its Secretariat.

28. The representative of the European Communities expressed the Community's great appreciation of Mr. O'Loughlin's fruitful and constructive work over the last five years. He was leaving the ship in good shape for his successor, whom the Community welcomed.

D. Information on Implementation and Administration of the Agreement

(i) Canada (VAL/1/Add.17+ Suppl.1 and 2, VAL/2/Rev.1/Add.14)

29. The representative of Canada said that the implementation of the Agreement with effect from 1 January 1985 had proceeded smoothly without running into some of the difficulties in trade relations with major parties that had been thought possible.

30. In response to a request for clarification from the representative of the United States in regard to a review of all transactions between related parties that she understood was shortly to take place, the representative of Canada said that no such overall review was planned. Reviews of individual transactions would take place, however, where it was believed that the transfer price might not be acceptable and these would be conducted in accordance with the provisions of the Agreement, giving the importer full opportunity to supply information on the circumstances of the sale. Experience so far indicated that about 95 per cent of entries were

being valued under Article 1. The representative of the European Communities noted this information with interest and said that his delegation would follow developments closely.

31. In response to a question from the representative of Sweden speaking on behalf of the Nordic countries on whether customs invoices had to be annexed to entry documentation in Canada, the representative of Canada said that, if all the information required was available on the commercial invoice, this was accepted. However, if some pieces of information were missing, customs requested it to be provided on a customs invoice. The intention of these arrangements was to expedite clearance of the goods. If it was felt that customs was seeking too much information, this was the sort of question that should be addressed in the Customs Co-operation Council. In response to a follow-up question, he said that it was acceptable to add the missing information on the commercial invoice.

32. In response to a further question from the representative of Sweden speaking on behalf of the Nordic countries concerning the Canadian remission system on computer software, the representative of Canada said that the system had been introduced to provide for flexibility in regard to legislative amendments. The system operated in such a way as to provide duty-free entry at the time of customs clearance on the value of the information component. When goods crossed the border, duty was only charged on the value of physical carrier medium. The representative of the European Communities said that, if this system resulted in the importer never having to pay or being asked to pay more duty than that resulting from following exactly paragraph 2 of the Committee's Decision on this matter, it was acceptable.

33. In response to a query from the representative of the European Communities as to whether Canada had information on the breakdown of the use of the valuation methods employed in connection with goods not valued under Article 1, the representative of Canada said that no comprehensive study had been undertaken, but based on customs experience to date it was estimated that less than 0.5 per cent of entries were valued under Article 2, about 0.5 per cent each under Articles 3 and 5, 2 per cent under Article 6 and 1.5 per cent under Article 7.

34. The representatives of Australia and Sweden speaking on behalf of the Nordic countries indicated that they had given further questions to Canada directly. Some other Parties indicated an interest in these questions and the replies to them and referred to the mutual benefits of maximum transparency in the examination process. The representatives of Australia, Sweden and Canada said that they would be happy to make their questions and replies available. Accordingly, the Committee agreed that the questions and replies to them would be made available to the secretariat for circulation to Parties prior to the April 1986 meeting of the Committee.

35. In response to a question from the representative of the European Communities about notification to the GATT of regulations under Article 283 of the Canadian Customs Act (for example registration 50R/85-52 on valuation for duty regulations) and under the Currency Act, and also to the Technical Committee of departmental memoranda, the representative of Canada said that regulations under Order-in-Council relevant to customs valuation would be made available to GATT. As regards departmental memoranda, Canada would be prepared to table in the Technical Committee any of the departmental memoranda on the administration of Canada's legislation relating to the Agreement.

36. The Committee agreed to revert to the legislation of Canada at its next meeting when further information would be available.

(ii) Czechoslovakia (VAL/1/Add.18)

37. The representative of Czechoslovakia said that the Agreement on Implementation of Article VII of GATT and its Protocol had been published as a Law-Decree No. 120/1984 Collection of Law of the Ministry of Foreign Affairs and had accordingly come into force for all competent organizations and persons in Czechoslovakia. The Customs Act No. 44/1974 Collection of Law and a Law-Decree of the Federal Ministry of Foreign Trade No. 119/1974 Collection of Law were the basic documents concerning the determination of the customs value of goods. During the practical application of this legislation, it had been found necessary to issue Operational Instruction of the Central Customs Administration No.7/1983, group 2 on customs valuation, to assist in implementation of the Agreement. It concerned such practical issues as the conversion of foreign currencies for the determination of customs value, the determination of the customs value of goods after having been worked over, adjusted, repaired against payment or leased. The questions of entries and the correction of incorrect entries were also dealt with by this Instruction. The Instruction was under revision at the present time. A revised version, specifying in more detail the practical application of the provisions of the Agreement would be issued during 1986. He added that the Czechoslovak delegation had presented to the secretariat responses to the checklist of issues, reflecting the present Czechoslovak legislation which was in conformity with the Agreement on Customs Valuation (the Czechoslovak responses were subsequently issued as document VAL/2/Rev.1/Add.15).

38. In response to a question from the representative of the United States as to whether the revisions to the Instruction would take the form of a statute or be an instrument of an administrative nature, the representative of Czechoslovakia said that they would take the form of a decree of the Ministry of Foreign Trade. The representative of the European Communities said that his delegation had also wondered about the legal status of Instruction No. 7/1983, group 2; he took it that the new decree incorporating revisions would be a legally-binding instrument.

39. The representative of the European Communities said that his delegation had not been able to find references in the Instruction to such matters as: Article 1.1(a)-(d); Article 1.2; paragraphs 1(b), 2 and 3 of Articles 2 and 3; parts of Article 5 and 6; all of Article 7; parts of Article 8; Article 15; and to practically all the interpretative notes and provisions of the Protocol. He would examine these matters in the light of responses provided to the checklist of issues and the new decree when it was available, and would follow-up these points and other points if necessary.

40. The Committee agreed to revert to the Czechoslovak legislation at its April 1986 meeting in the light of the responses to the checklist of issues and the revised decree if available.

(iii) Botswana (VAL/1/Add.16 and VAL/16)

41. The representative of the European Communities expressed the appreciation of his delegation for the responses provided by the Botswanan authorities in document VAL/16 to the questions his delegation had posed. In particular, the Community's comments on the departmental instruction had

been acted upon in a very satisfactory way. He felt sure that the issue had been mainly one of getting used to the vocabulary of the GATT Code. As regards the omission of the phrase "as a condition of sale" in the definition of the "price actually paid or payable", he noted that reference had been made to the South African legislation; his delegation would in due course examine this legislation to see if anything needed to be said on this point. As regards the use of the term "transaction value" for the "deductive", "computed" and "fall-back" methods of valuation, this had never been intended but in itself perhaps did no great harm.

42. The Committee took note of this statement and, since no Botswanan representative was present, asked the secretariat to convey to the Botswanan authorities the discussion and the Committee's appreciation of the responses provided.

(iv) Information from Parties expected to apply the Agreement in 1986

(a) Brazil

43. The representative of Brazil, recalling that he had given some preliminary information at the Committee's previous meeting, said that Decree 91000-30 of 5 March 1985 contained the new Brazilian customs regulations. Article 19 thereof stated that Brazil would apply the Agreement on Implementation of Article VII of the GATT not later than 23 July 1986. The Ministry of Finance Act of 15 February 1985 had altered the structure of the Federal Income Department to include a new body called the Coordination of the Customs Control System with regional and local ramifications throughout Brazil. Jointly with the Coordination of the Fiscal System, this body was responsible for the operation of the Agreement in Brazil. The Coordination of the Customs Control System would soon complete a project for the implementation of the Agreement that would be published as an Act of the Ministry of Finance. It would be forwarded to the Committee as soon as published, along with the other legislation to which he had referred, initially in Portuguese, but provision was being made for their translation as soon as possible.

44. The representative of the United States said that, according to information available to her, under the Brazilian import licensing system licences were only allowed in amounts related to one price for each imported product. She requested information on how Brazil planned to administer its import licensing system in the light of the provisions of the Valuation Agreement which recognized that different prices could exist for the same goods. The representative of Brazil said that he would transmit this question to his authorities and revert to this matter at an appropriate stage.

(b) Republic of Korea

45. The representative of the Republic of Korea said that no obstacles to the full implementation of the Agreement not later than February 1986 were expected. His delegation expected to be able to submit copies of his country's legislation in English before February 1986.

46. The Committee agreed that, assuming the legislation of the Republic of Korea was available before February 1986, Parties having questions to pose should attempt, to the extent possible, to give the Republic of Korea advance notification of them by transmitting them through the secretariat

by the end of March 1986. The Committee would then examine the legislation of the Republic of Korea at its April 1986 meeting.

(c) India

47. The representative of India recalled that his country had taken a keen interest in the Agreement both in the drafting stage and subsequently. He then described the steps that his country had already taken towards implementing the Agreement. As recently as the summer of 1985 it had been the hope of India to apply the provisions of the Agreement with effect from 1 January 1986. However, a number of recent developments had made this impossible. It was now clear that his country would need further time; careful study had shown that, in order to implement the Agreement satisfactorily, an additional period of 3.5 years from 1 January 1986 was required. He felt confident that, in accordance with the provisions of paragraph I:2 of the Protocol, Parties would give sympathetic consideration to this request. The detailed points made in his statement on the steps already taken and the reasons for asking for an extension are contained in document VAL/17 of 15 November 1985.

48. The representative of the United States said that the Indian request at this late stage had taken her by surprise, particularly in view of the active rôle of India in the negotiation of the Agreement and in its Committees. Her initial reaction was one of alarm that, after having taken full advantage of the five year delay period provided in Article 21.1, India should seek an extension, and for a period as long as 3.5 years. Her delegation had no instructions on how to react; she could not agree before consulting her authorities. In any event, the reason for the Indian request would have to be examined in detail so that Parties could assess whether there was the "good cause" that would warrant sympathetic consideration in terms of paragraph I:2 of the Protocol. She, therefore, suggested that the Committee hold a special meeting in December 1985 to consider the Indian request. The representative of the European Communities indicated his agreement with this statement.

49. The representative of Brazil felt sure that his authorities would give the Indian request sympathetic consideration. He had doubts about the appropriateness of a special meeting. Perhaps consultations on procedures for implementation of paragraph I:2 of the Protocol might be held under the auspices of the Chair.

50. The representative of Hungary felt that India had done all that it could to meet the deadline. He had doubts about holding a special meeting and would prefer that the Committee deal with the request at its next regular meeting.

51. The representatives of the European Communities and of the United States said that, if the matter were carried over to the Committee's April 1986 meeting, a question would arise as to the legal status of India vis-à-vis the Agreement as from 1 January 1986. This would be a very undesirable precedent. Their proposal for a special meeting was to prevent this.

52. The representative of India said that he felt that, as part of the provisions on special and differential treatment for developing countries in the MTN Codes, a flexible and sympathetic approach to the question of time-limits should be taken. He believed that this point had been made by a number of observers in the recent discussions on the adequacy,

effectiveness and obstacles to acceptance of the various MTN Codes. Such an approach would encourage further countries to join. Moreover, he believed that an additional delay of 3.5 years by India would not cause any loss of substantive benefits to other countries since he did not believe that any country had concrete difficulties arising out of India's present valuation practices. If there were any such specific difficulties he would be interested to hear of them. He believed that the appropriate course of action would be for the Committee to agree in principle to the extension and, if some delegations needed further time for consideration in relation to its duration, to take up this question at the Committee's first regular meeting in 1986.

53. The Committee reverted to this matter at the end of its meeting after informal consultations had been held. At that time, it had available a written text from the Indian delegation (subsequently issued as document VAL/17). In the light of the informal consultations, the Chairman suggested that: (i) delegations undertake to obtain a reaction to the Indian request as quickly as possible; (ii) if no objection was received by the secretariat by close of business on 29 November 1985, the Committee would be deemed to have agreed in principle at this preliminary stage to an extension of India's period of delay before applying the provisions of the Agreement and would consider the specific duration of the extension at its first meeting in 1986; and (iii) if an objection was received, a regular meeting of the Committee would be held on 9 December 1985 to consider the Indian request.

54. The Committee so agreed.

(v) Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods; Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment

55. The Committee took note of the status of the application of these two decisions as presented in documents VAL/9 and Addenda and VAL/11 and Addenda. In response to a suggestion from the Chair, the Committee agreed that the secretariat produce a single document summarizing the status of application of these decisions by Parties. The Committee also agreed that two questions be added to the checklist of issues that Parties would be asked to respond to in connection with the examination of their legislation. These questions would ask respectively: how have the provisions of the Decision of 26 April 1984 on the Treatment of Interest Charges in the Customs Value of Imported Goods (VAL/6/Rev.1) been implemented; and, for those countries applying paragraph 2 of the Decision of 24 September 1984 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment (VAL/8), how have the provisions of this paragraph been implemented.

56. In response to a request for clarification, the Chairman said that these questions would only apply to Parties responding to the checklist in the future.

E. Argentine request for an extension of period of delay before application of the provisions of the Agreement

57. The representative of Argentina, updating the information provided at the Committee's meeting of 9-10 May 1985 on progress towards the legislative ratification of the Agreement by Argentina (VAL/M/13,

paragraph 28), said that the upper chamber of Congress, that is the Senate, had approved in the course of its ordinary session the Agreement and its Protocol consistently with the terms notified by Argentina to the Director-General of GATT in connection with Argentina's acceptance of the Agreement. A copy of the text approved by the Senate had been made available to the secretariat. Consideration by the other chamber, that is to say the Chamber of Deputies, was pending. The draft would be considered at its next ordinary session which would begin on 1 May 1986, unless the draft was considered prior to that time in an extraordinary session upon request by the Executive. He said that there had thus been important progress towards the ratification of the Agreement. He recalled that, at the Committee's meeting of 9-10 May 1985, the reasons why the Government of Argentina considered it necessary to request an extension of two years for the implementation of the Agreement in keeping with paragraph I:2 of the Protocol had been set out. Consultations had been held with other interested delegations on this and no difficulties had been expressed.

58. The Committee agreed that, taking into account the situation in regard to the ratification of the Agreement by Argentina, there was no objection to Argentina's intention to apply the provisions of the Agreement with effect from 1 January 1988.

59. The representative of the European Communities stressed the importance his delegation attached to Argentina applying the Agreement no later than 1 January 1988.

F. Reservations under paragraph I:3 of the Protocol

60. The representative of Brazil recalled that at the Committee's meeting of 9-10 May 1985, his delegation had indicated that, after applying the provisions of the Agreement, Brazil would wish to apply minimum values for a period of three years, adjusting them for inflation. As regards the provision of additional details, he reaffirmed his delegation's intention to do so in due course and, in any event, before the Committee's April 1986 meeting. This would still be within the time-frame of the procedures agreed upon by the Committee for reservations under paragraph I:3 of the Protocol, which stated that agreement should be reached as quickly as possible, at any rate not later than the date on which the Party having availed itself of the possibility of Article 21.1 starts implementing the provisions of the Agreement. His delegation was aware that minimum values were in principle not recognized by the Code, while at the same time the Protocol recognized in its paragraph I:3 that developing countries, which value goods on the basis of officially-established minimum values, may wish to make a reservation, in order to enable them to retain such values on a limited and transitional basis under terms agreed by the Parties to the Agreement. His country's intention was to retain such values on a limited and transitional basis. Brazil had been applying reference prices and minimum values since 1970 as a preferable alternative to increasing ad valorem import duty levels. Reference prices were determined in Brazil on basis of the c.i.f. prices effectively applied by suppliers during a given period. Such reference prices could not be higher than the highest c.i.f. price per country of origin identified during the base period. The system was not discriminatory and was only temporarily in force. He believed that reference prices did not constitute barriers to the normal flow of trade. He was confident that Committee members would give consideration in sympathetic terms to Brazil's proposal.

61. The representative of the United States thanked Brazil for the information given and urged Brazil to supply as soon as possible details of the products to which minimum values would apply. Her delegation could not take a position until this information had been provided and studied. The representative of the European Communities said that he would also have to reserve his position until details of the products and conditions had been supplied.

62. The Committee took note of the statements made and agreed to revert to this matter at its April 1986 meeting when further written details from Brazil would be available.

G. Annual Review of the Implementation and Operation of the Agreement

63. The Committee conducted its annual review of the implementation and operation of the Agreement on the basis of a secretariat background note, VAL/W/31, and agreed that the secretariat issue, as a VAL/- document, a revision taking into account the comments made and the work at the present meeting.

H. Annual Report to the CONTRACTING PARTIES

64. The Committee adopted its annual report to the CONTRACTING PARTIES (L/5912).

I. Other business

(i) Panelists

65. The Chairman said that, in accordance with paragraph 2 of Annex III to the Agreement, nominations for 1985 had been received from Finland, Japan, Norway, Romania, Sweden, the United Kingdom on behalf of Hong Kong and the United States. He noted that, at the beginning of 1986, all Parties would be expected to nominate persons available for panel service in 1986 or to confirm existing nominations, and appealed to Parties to provide the relevant information promptly.

(ii) Dates of next meetings; draft agenda of next meeting

66. The Committee had envisaged the possibility of a meeting on 9 December 1986 (see paragraph 53 above). The Committee agreed to hold its first meeting in 1986 on 29-30 April 1986 and to set aside tentatively 10-11 November 1986 as the dates for a second meeting in 1986.

67. The Committee agreed that the draft agenda of its April 1986 meeting would include the following items:

- A. Election of Chairman and Vice-Chairman
- B. Accession of further countries to the Agreement
- C. Technical assistance
- D. Report on the work of the Technical Committee
- E. Information on Implementation and Administration of the Agreement
- F. Action under paragraphs I:2 and I:3 of the Protocol.