

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
VAL/Spec/24
23 December 1986

Committee on Customs Valuation

DRAFT MINUTES OF THE MEETING HELD ON 10 NOVEMBER 1986

Chairman: Mr. P. Nicora (France)

1. The Committee on Customs Valuation met on 10 November 1986.
2. The Chairman informed the Committee that he had received a request from the People's Republic of China, in a communication dated 27 October 1986, to be represented at meetings of the Committee. In reacting to this communication, some Parties said they could agree to according China observer status at the Committee's meetings. Some other Parties said that, while they viewed the request in a positive light, they had only been informed of it recently and needed more time to examine the matter. Some of these Parties wished clarification that China was indeed seeking observer status. The Chairman, noting the positive reactions and that some Parties needed more time to examine the issue, suggested that the Committee come back to it at its next meeting. It was so agreed.
3. The following agenda was adopted:

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A. Accession of further countries to the Agreement

(i) Lesotho

4. On behalf of the Committee, the Chairman welcomed Lesotho, which had accepted the Agreement on 30 June 1986 (VAL/26), as a member of the Committee and a Party to the Agreement.

5. The representative of Lesotho said that, although the Agreement had legally come into force for his country on 30 July 1986, Lesotho had been applying the valuation system under the Agreement since 1 July 1983 in consequence of its obligations under the customs union agreement that it had with Botswana, South Africa and Swaziland. He informed the Committee that he had just submitted to the secretariat copies of his country's national legislation and implementing regulations together with replies to the checklist of issues (consequently distributed as documents VAL/1/Add.21 and VAL/2/Rev.2/Add.2). He added that, on account of Lesotho's acceptance of the Agreement, certain sections (sections 7, 71 and 75) of the substantive legislation had been amended; these amendments would be made available to Parties as soon as possible.

6. The Committee agreed to examine the legislation of Lesotho at its next meeting and to invite Parties having questions to provide, to the extent possible, advance notice of them in writing to the Lesotho delegation, through the secretariat, by the end of March 1987.

(ii) Argentina

7. The representative of Argentina said that his country had deposited its instrument of ratification of the Agreement on 18 September 1986, as indicated in document VAL/26 which also reproduced his country's terms of acceptance of the Agreement - the same terms as those entered at the time of signature of the Agreement. VAL/26 further reproduced a communication from his Government confirming that Argentina would apply the provisions of the Agreement as from 1 January 1988, in line with the agreement of the Committee regarding this matter (VAL/M/14, paragraph 58). Since the Agreement had already been approved by the Argentinian Congress, further implementing legislation was not required. Implementing regulations, in the form of a decree had been drafted and were presently being considered by the relevant authorities. The implementing regulations were likely to provide for:

- incorporation of the reservations made at the time of accession;
- full incorporation of the elements provided for in Article 8.2 of the Agreement;
- concordance of the valuation system with the customs code;
- confidential treatment of information by the customs authorities;
- obligation of competent authorities to inform interested parties of their rights to appeal against decisions;
- provisions regarding provisional release of goods against guarantee;
- rate of exchange at time of importation; and
- clarification regarding members of the same family for consideration as "related" parties.

(iii) Turkey

8. The representative of Turkey informed the Committee of developments in regard to the ratification of the Agreement by his country. The relevant national procedures had been initiated and were well advanced. The Committee on Foreign Affairs of the National Assembly had considered the matter which was presently under study by the Budget Committee. When the relevant Committees would have completed their work, the Agreement would be submitted to the general sessions of the National Assembly for approval. He was hopeful that the ratification procedure would be completed shortly.

(iv) Status of Spain and Portugal in the Agreement

9. The Chairman noted that, as indicated in document VAL/24, Portugal had withdrawn from the Agreement in its individual capacity, remaining linked to the Agreement by virtue of its membership of the European Communities. He believed that the same would apply to Spain; members would be kept informed.

B. Technical assistance

10. The Committee had before it document VAL/W/29/Rev.1 and Addenda 1 and 2 containing information on technical assistance activities in connection with the Agreement.

11. The representative of the Republic of Korea stressed the usefulness of the technical assistance made available in connection with the Agreement, including the seminars in New Delhi in 1985 and Arusha in 1986 in which his country had participated. He expressed appreciation for the financial support offered by some countries for these seminars. He felt that the seminars could be further improved by greater emphasis in the use of the case study method, rather than explanatory lectures, in such fields as techniques for appraisal, data management, identification of valuation fraud and international cooperation in the exchange of information.

12. The representative of Argentina, referring to the information contained in document VAL/W/29/Rev.1/Add.2 on the training course to be held in Argentina, said that the course would last from 30 March to 10 April 1987. Course material would be provided by the Customs Co-operation Council. Argentinian experts would cooperate in presenting the course. At the recent meeting of Directors-General of customs administrations of the Latin American countries, participants had been informed about the course by the Argentinian administration.

13. The observer for Indonesia expressed the appreciation of his country for the technical assistance received in connection with the Agreement, notably the training course held 7-18 July 1986 in the Hague. His country was interested in further training possibilities.

14. The representative of Australia said that current Australian policy was to direct customs training towards specific countries or regions. At present, the target area was the South Pacific and Papua New Guinea. However, specific requests for valuation training would be accepted from countries in other regions wherever possible.

15. The Committee took note of statements made.

C. Report on the work of the Technical Committee

16. The Chairman of the Technical Committee, Mr. P. Haaland (Norway), said that the full report of the twelfth session of the Technical Committee, held 6-10 October 1986, was in CCC document 33.590. In connection with intersessional developments, he said that the Technical Committee had been informed that the CCC Director of Valuation had visited Algeria and Tunisia, where he had had talks with the Directors-General of customs; during these talks those administrations had expressed their intention of acceding to the Code. The Technical Committee had taken note of a Decision of the Customs Co-operation Council at its annual session to establish a Joint Expert Group on Valuation Fraud, which would meet in January 1987. The Technical Committee had been informed of the Decision of the Council which would restrict the meetings of the Council committees to a single one week session per year. However, since the Technical Committee had been established by the GATT, this Decision had been found to be not applicable to the Technical Committee.

17. Continuing his report, the Chairman of the Technical Committee referred to the statements made on technical assistance and developments in the CCC secretariat's activities in this regard (see document VAL/W/29/Rev.1/Add.2). He added that Tunisia had expressed an interest in organizing a course on customs valuation which would be open to other countries of the region. Turning to technical questions he said that the Technical Committee had adopted three new instruments relating to technical matters:

- A set of examples to illustrate advisory opinion 14.1 on the meaning of the expression "sold for export to the country of importation", containing two examples based on information furnished by Canada, illustrating the principles laid down in the opinion as they related to actual international transfer of goods;
- A case study supplementing the study adopted during the Eleventh Session of the Technical Committee on the treatment of rented or leased goods. The case study provided information on a specific leasing transaction, together with general advice on appropriate valuation methods and determination of customs value on the basis of rental charges in particular, and illustrated the deduction of interest charges; and
- An advisory opinion on the treatment of quantity discounts, illustrating the principles and the variety of circumstances involved within the context of four examples based on the material supplied by the EEC.

18. The Technical Committee had also examined a number of other technical matters:

- Treatment of quota charges under Article 1: The Committee had examined a secretariat document summarizing the answers received and indicating its views on the case presenting by the Swedish administration. During the discussions it had emerged that, with regard to Sweden's example, the majority of

delegations favoured including the quota charges in the price paid or payable. As far as other types of quota charges were concerned, the stances of delegations had not been clear cut. The Committee had decided to invite administrations to provide the secretariat with suitable examples for examination.

- Valuation of carrier media bearing software for data processing equipment: The problem, as posed by the International Chamber of Commerce during the Eleventh Session of the Technical Committee, concerned difficulties encountered in distinguishing the cost or value of the carrier media, because while some countries found it sufficient to declare a value for the medium alone, others required the declaration of the value both of the medium and of the data or instructions. This variation was also due to reasons other than valuation, such as statistical and fiscal requirements. Discussions had been based on the secretariat document summarizing the information received on the question and indicating its view that, if precise figures were not available, estimates of the two values could be arrived at, if necessary in consultation between the customs administration and the importer. The Technical Committee had finally decided that, although interests other than customs valuation were involved, this approach was the most appropriate solution available at present and instructed the secretariat to prepare an instrument for the next session setting out guidelines on the subject.

19. Concluding his report, the Chairman of the Technical Committee said that, in addition to the questions already referred to in the preceding paragraph, the following items had been put on the agenda of the Thirteenth Session, to be held 2-6 March 1987:

- Examination of the expression "the fact that the buyer and the seller are related within the meaning of Article 15 shall not in itself be grounds for regarding the transaction value as unacceptable";
- The determination of profit margins for use in deductive or computed value methods;
- Meaning of the expression "activities undertaken by the buyer on his own account after the purchase of the goods but before importation"; and
- Examination of the expression "the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued".

20. The representative of the Republic of Korea, referring to the discussion in the Technical Committee on the treatment of quota charges, said that his delegation supported the opinion that customs value should not include the value of quota charges. This view was held because quota charges normally arose as a result of the specific trade policy of the country adopting quota systems; the charges accrued to the quota holder rather than to the seller. Such a charge was not a payment for an imported good itself and could not be added to the price of the good by

virtue of any of the additions provided for in Article 8 of the Agreement. In the view of his delegation, the issue required further study in the Technical Committee.

21. The Chairman of the Technical Committee urged the Korean delegation to present his comments in writing to the Technical Committee in advance of its next Session.

22. The representative of Hong Kong said that his delegation was interested in the question of the treatment of quota charges and was studying the various issues raised at the last session of the Technical Committee. It might comment on this matter at future meetings of the Technical Committee or of the Committee on Customs Valuation.

23. The observer for the Customs Co-operation Council, giving further information on the question of the duration and frequency of meetings of the Technical Committee, said that, at its 67th/68th Sessions, the Customs Co-operation Council had examined the Report of the Resource Allocation Study Group set up by the CCC Policy Commission in 1985. The Study Group's recommendations had been adopted by the Council as Council Decision No. 249. Paragraph 2.1 of the Decision recommended that the number of the meetings of the Council Committees be in principle restricted to a single one week session per year with effect from July 1987. The Valuation Directorate had issued a document during the intersession inviting the Technical Committee to discuss the possible impact of this Decision on its activities, with particular reference to its programme of work and the obligations arising out of Annex II to the GATT Valuation Agreement. During the last session of the Technical Committee, there had been a lengthy discussion on the frequency and duration of the meetings, and special emphasis had been placed on the fact that the Technical Committee was a body set up by the GATT to which not all the points raised in the Decision 249 were applicable. After the Technical Committee's meeting, as a result of further discussions within the CCC Secretariat, it had been decided that the CCC Secretary General would propose to the CCC Policy Commission to continue to hold two meetings of the Technical Committee per year, due to its obligations arising from the GATT Agreement. Duration of the meetings, however, would depend on the workload of the Committee.

24. The Committee took note of the report of the Chairman of the Technical Committee and of the statements made, and expressed appreciation for the continued valuable work of the Technical Committee.

D. Information on implementation and administration of the Agreement

(i) Czechoslovakia

25. The representative of Czechoslovakia introduced the documentation now available to the Committee on his country's legislation. He said that two of the legislative texts distributed in 1985 as document VAL/1/Add.18 were still valid, namely the Czechoslovak Customs Act No. 44/1974 and Czechoslovak Law No. 117/83. Three additional texts had been presented to the Committee in document VAL/1/Add.18/Suppl.1:

- The Instruction of 18 August 1986 of the Federal Ministry of Foreign Trade on the implementation of the customs valuation Agreement. These were revised instructions, replacing Instruction No. 7 of 1983, and were designed to ensure uniform

assessment of customs valuation and uniform technical application of the Agreement.

- The Decree of the Federal Ministry of Foreign Affairs No. 120 of 20 August 1984 which reproduced the whole text of the Agreement; and
- The Decree of the Federal Ministry of Foreign Trade of 14 August 1986 which implemented selected provisions of the Customs Act No. 44/1974 concerning customs valuation.

In addition, a revised set of responses to the checklist of issues, taking into account these new legislative texts, had been circulated as document VAL/2/Rev.1/Add.15/Suppl.1.

26. Since delegations needed more time to study these documents, the Committee agreed to revert to the Czechoslovak legislation at its next meeting. It invited delegations having questions on the Czechoslovak legislation to provide, to the extent possible, advance notice of them in writing to the Czechoslovak delegation, through the secretariat, by 31 March 1987.

(ii) Republic of Korea

27. The representative of the Republic of Korea said that, as he had indicated at the Committee's meeting of 30 April 1986, Korea had been valuing all imported goods in accordance with the Agreement since 5 February 1986 (VAL/M/17, paragraph 28). He further recalled that, at that meeting, he had pointed out that, even though the Korean Customs Law and Presidential Decree had not been totally revised in accordance with the Agreement, no problem of conformity would arise because, as stated in Article 43-14 of the Customs Law, priority was given to international agreements adopted by his country when provisions of domestic customs law were not consistent with those of international agreements. He said that, in addition to the legislative texts available to the Committee at its April meeting and contained in documents VAL/1/Add.19 and Suppl.1, the Committee now had before it, in document VAL/1/Add.19/Suppl.2, the full text of the Detailed Enforcement Regulations on Customs Assessment under the GATT Agreement (the Commissioner's Decree), which was currently the practical standard for the implementation of the Agreement in Korea. In addition, his delegation had made available, in document VAL/2/Rev.2/Add.1/Suppl.1, a second set of responses to the checklist of issues which reflected the Detailed Enforcement Regulations. Furthermore, his delegation had circulated in document VAL/W/39, as undertaken at the Committee's April meeting, responses to questions put by the European Communities and the United States. His delegation would be pleased to respond at the next meeting of the Committee to any written questions on his country's legislation.

28. Since delegations needed more time to study these documents, the Committee agreed to revert to the Korean legislation at its next meeting. It invited delegations having questions on the Korean legislation to provide, to the extent possible, advance notice of them in writing to the Korean delegation, through the secretariat, by 31 March 1987.

(iii) Brazil

29. The Committee took up first the general valuation legislation of Brazil and then the specific questions relating to the reservation by Brazil regarding officially-established minimum values and reference prices.

30. The representative of Brazil said that there were three documents before the Committee concerning the valuation legislation of Brazil. The first was VAL/22, which his delegation had already introduced at the Committee's April meeting (VAL/M/17, paragraph 35). The second was VAL/1/Add.20 containing Decree No. 92.930 of 16 July 1986, which his delegation had notified in compliance with its obligations under the Agreement and within the prescribed timeframe. This Decree had put into force the Customs Valuation Code in Brazil as from 23 July 1986. It reproduced the entirety of the Code, including its general introductory commentary, annexes, and additional Protocol, and also took into account the reservations Brazil had made under paragraphs 3, 4 and 5 of the Protocol. The third document was VAL/27, which referred to three acts establishing complementary rules for the application of the Code, published by the Federal Income Department on 17 July 1986, in accordance with Article 3 of Decree 92.930; these three legal texts, as yet, had been notified in the Portuguese version only. Normative Act 84 referred mainly to the definition of customs value and transaction value as provided for in Article 1 of the Agreement as well as in the general introductory commentary and in the respective interpretative notes. Normative Act 85 established transitional rules for the application of the Code and Joint Act CCA/CST/CIEF/25 of 21 July 1986 comprised a comprehensive summary of the Code as well as specific customs procedures and instructions to importers. His delegation hoped to be soon in a position to notify these legal texts in one of the GATT official languages. As for the checklist of issues, his authorities were still examining it and intended to submit their responses as soon as possible.

31. The Chairman noted that the Committee would have to come back to the Brazilian legislation at its next meeting and urged the Brazilian delegation to make available the promised translations by 31 March 1987, in order that the Committee's deadlines for the next meeting would be met. Advance notice of any questions from Parties should be submitted, to the extent possible, through the secretariat as soon as possible after the translations were available.

32. Turning to the question of the Brazilian reservation regarding officially established minimum values and reference prices, the representative of Brazil said that, as notified in document VAL/25, the Brazilian Government had decided on 17 July 1986 to establish two reference prices regarding respectively rotary offset machines and polycarbonates. The Brazilian authorities had been obliged to resort to such schemes due to the accentuated disparity of import prices of these two products and to the fact that the behaviour of these import prices was affecting the adequate development of the industrial sectors involved. Since the products in question were unbound items, his authorities could have increased their tariff levels in a discretionary way, a measure which would certainly have had negative effects on exporters. Instead of doing so, they had preferred to establish the two reference prices in question. These two reference prices referred specifically to two products only and not to sets of

products: Resolution 03-1.013 referred only to rotary offset machines with maximum printing format up to 710 mm x 1,020 mm; and Resolution 03-1.014 referred specifically to polycarbonates falling under item 39.01.19.99 of the Brazilian Tariff Schedule. It should also be noted that the Resolutions referred to in VAL/25 would remain in force only until 31 January 1987; the resolutions which established the reference prices listed in VAL/W/36 and Addendum 1 had not contained a similar provision. All this showed that the Brazilian Government, despite the extraordinary nature of the measure taken on 17 July 1986, recognized that the thrust of both the spirit and the letter of the reservation dated 13 June 1986 was towards a reduction in the number of products whose importation into Brazil was affected by the establishment of reference prices. Further evidence was the withdrawal, on Brazil's own initiative, of reference prices on certain products, as mentioned in VAL/25, within the scope of a phase-out programme to be carried out by the Brazilian Customs Policy Commission. His delegation reaffirmed that Brazil had no intention to apply minimum values and reference prices indiscriminately.

33. The representative of the European Communities said that the Community regretted that only about a month after the Committee's meeting in June 1986, and even before implementation of the Agreement, Brazil had imposed two new reference prices. This had been done without seeking or receiving the agreement of the Parties to the Agreement, and without obtaining the terms and conditions provided for under paragraph I:3 of the Protocol. These two reference prices were not ones that could be "retained" under that provision, since it was only possible to retain what existed already. The Committee's decision of June 1986 was specifically linked to documents VAL/W/36 and Add.1, and provided no authority anywhere for the introduction of these new reference prices. This action was therefore not consistent with Brazil's obligations under the Agreement. These measures should be withdrawn and Brazil should undertake not to introduce reference prices inconsistently with its obligations under the Agreement. Should there be a recurrence, the Community would take measures under the Agreement to rectify the matter.

34. The representative of the United States expressed the disappointment and concern of her delegation about the addition of new products to the list subject to reference prices. Only the products listed in documents VAL/W/36 and Add.1 were subject to the provisions of the reservation accorded by the Committee in June 1986. It did not provide authority for the addition of new products. She had noted the Brazilian statement that these new reference prices would lapse in the near future. Should this not happen, her delegation would consider that the reservation would have to be re-examined and would ask the Committee to reconvene for this purpose.

35. The representative of Brazil said that he had taken note of the comments of the European Communities and United States, which would be forwarded to his authorities in Brasilia. He said that he would also forward to his authorities a list of requests for removal of products from the items subject to minimum value and reference prices received from the United States delegation.

36. The representative of the United States said that this list had been provided to the Brazilian delegation, and to the secretariat, under the provisions of paragraph 2 of the Committee's decision of 13 June 1986 on the Brazilian reservation. The process provided for in this paragraph aimed at reaching a mutually-satisfactory agreement should begin at this point.

37. Concluding the discussion, the Chairman noted the statements made on the question of the addition of two new products to the list subject to reference prices in Brazil, and also the statements regarding requests for the removal of products from that list. If necessary, the Committee would revert to these matters at a meeting after the date when the new reference prices were due to lapse.

(iv) Lesotho

38. The Chairman noted that this matter had been dealt with under agenda item A (see paragraphs 4-6 above).

(v) Status of application of the Committee decisions on interest charges and computer software

39. The representative of the European Communities noted that document VAL/W/34/Rev.2 indicated that some countries had yet to provide the required information. He looked forward to receiving this information so that the gaps in this document could be filled in.

40. The representative of the United States wished this matter to be kept on the agenda, at least until the software question on the agenda of the Technical Committee had been resolved.

41. The Committee agreed to keep this item on the agenda for the time being and that document VAL/W/34/Rev.2 should be updated as necessary.

(vi) Other matters

42. The Chairman noted that the representative of Argentina had given some information on steps taken in connection with the operation and implementation of the Agreement under agenda item A (see paragraph 7 above).

E. Information on the situation with regard to the application of the provisions of the Agreement by India

43. The Chairman said that this item was on the agenda in accordance with paragraph 5 of the Committee's decision of 23 January 1986 according India an extension of its period of delay before applying the provisions of the Agreement (VAL/M/16, paragraph 9).

44. The representative of India said that his authorities had taken a number of steps towards application of the provisions of the Agreement. A series of consultations had been held with the Collectors of Customs and the Ministry of Law in regard to modalities for the amendment of the Customs Act in order to apply the Agreement. The necessary Bill was expected to be introduced at the budget session of the Indian Parliament, scheduled to commence in February 1987. The necessary administrative measures had been initiated for identifying areas where special safeguards might be necessary as a result of the adoption of the Agreement. Discussions had been had with officials from the Customs Co-operation Council to consider the implications of the adoption of the Agreement. The Indian authorities had taken a number of steps to impart necessary training to customs officials on the new valuation system. A number of seminars had been organized with importers and customs clearing agents to explain fully

the changes in valuation practices. He recalled that his authorities considered that application of the Agreement would be facilitated by computerization of the data base. In this regard, steps had been taken to bring these computerized operations into effect by mid-1987.

45. In response to a request from the representative of the United States for confirmation that India did not foresee any difficulties with application of the Agreement as of 1 July 1987, the representative of India said that the steps that he had described were being taken in order to meet the 1 July 1987 deadline and that in the present circumstances his authorities did not intend to seek authorization for any further extension of the deadline. He added that, naturally, he could not foresee whether developments might arise between now and 1 July 1987 that could change the situation.

46. In response to a request from the representative of Canada for clarification of the reference made to possible "special safeguards" in the Indian statement, the representative of India said that the areas in question remained to be identified, but among the matters to be examined would no doubt be the economic implications of adoption of the Agreement, including for customs revenue - questions which had already to some extent been addressed by the Customs Co-operation Council and GATT.

47. The representatives of the United States and of the European Communities said that, in their view, the Indian statement did not respond adequately to the requirements of paragraph 5 of the Committee decision of 23 January 1986 to provide to the Committee information on the situation with regard to the application of the provisions of the Agreement. It was not clear to what extent the report showed progress relative to the situation in November 1985 when India had sought an extension of the period of delay.

48. The representative of India said that, in his view, his statement had fully responded to the requirements of paragraph 5 of the Committee's decision of 23 January 1986 and that a careful study of the situation in November 1985 as presented in document VAL/17 and the situation he had described today would show that considerable progress had been made.

49. The representative of the United States said that, since there was nothing in the information provided by India that would indicate a block to application of the Agreement by India on 1 July 1987, he assumed that India was on track to implement the Agreement at that time. His delegation, therefore, considered that India was unlikely to make a "substantive case for further extension" of the period of delay, in terms of paragraph 2 of the Committee's decision of 23 January 1986, and expected India to apply the Agreement as from 1 July 1987.

50. The representative of the European Communities said that he would expect India to be in a position to confirm unequivocally at the Committee's May 1987 meeting that it would meet the deadline. The representative of India said that the situation should be clearer in May 1987 and that his delegation had no objection to the matter being raised at that time.

51. The Chairman suggested that the Committee take note of the statements made and agree to revert to this matter at its next meeting. He also suggested that bilateral consultations be held among delegations in the meantime, if necessary. The Committee so agreed.

52. The representative of India said that the consultations referred to by the Chairman would be facilitated if the United States delegation were to make available in writing in advance the additional questions that he understood the United States had concerning the application of the Agreement by India. The representative of the United States said that he would make these questions available to the Indian delegation and to other members of the Committee.

F. Private companies engaged in customs valuation

53. The representative of the United States recalled the discussion on this matter at the Committee's meeting of 30 April 1986 (VAL/M/17, paragraphs 45-47) and said that she wished to inform the Committee of developments in the United States in this connection since that time. Her authorities had been receiving an ever increasing number of complaints from exporters about the activities of pre-shipment inspection companies and their involvement in valuation and other procedures. In September 1986, her Government had issued a notice in the United States Federal Register requesting further public information on this issue. The responses received had highlighted three categories of problems:

- (i) costly and time-consuming delays from the pre-shipment inspection requirement itself;
- (ii) the ability of third parties to abrogate contractual agreements between exporters and importers with regard to prices and to reject prices because they were higher or lower than prices considered "reasonable" by pre-shipment inspection companies;
- (iii) requirements by pre-shipment inspection companies for the submission to them of a great deal of business confidential information and concern about the possible misuse of this information.

In the view of her delegation, problem area (ii) was likely to be of more direct interest to the Committee on Customs Valuation since it concerned the value of goods for customs purposes.

54. Continuing her statement, the representative of the United States said that, based on the complaints received, their serious nature and the fact that a growing number of countries, including some that were observers in the Valuation Committee, were employing such companies, the United States had very recently launched a five point action plan designed to deal with all aspects of the problem. The plan provided for:

- (i) bilateral consultations with all 24 countries contracting pre-shipment inspection companies for valuation purposes, with a view to determining if there were alternative ways of dealing with problems of capital flight and, in some cases, fraudulent documentation;
- (ii) exploration of the possibilities of multilateral solutions, including through the Committee on Customs Valuation, since the matter was one of concern to a large number of countries and had implications for the internationally accepted principles for customs valuation;

- (iii) the monitoring of the activities of pre-shipment inspection companies in the United States and follow-up of complaints received from exporters;
- (iv) consideration of possible domestic legislation in the United States or other appropriate action to limit the activities of these companies in the United States;
- (v) the initiation of a United States International Trade Commission study on the impact of the activities of these companies on United States commerce.

55. She said that the United States recognized that there were serious problems leading countries to employ pre-shipment inspection companies for valuation purposes. Her authorities wished to work with these countries to find wherever possible mutually acceptable ways of dealing with these problems in a way that would not burden international trade. She felt that the main emphasis in the Committee on Customs Valuation should be on the practices of pre-shipment inspection companies in determining "reasonable" prices, which were then used for customs valuation purposes. These practices presently went far beyond what was necessary for combating fraud. She recalled that a basic principle and rule of the Valuation Agreement was the prohibition of the use of arbitrary or fictitious customs values. Moreover, the Committee should be concerned about doing what it could to discourage more countries from employing pre-shipment inspection companies. To provide a starting point for further discussion at the Committee's next meeting, she requested that the conclusions and proposals laid out in a document of the ECE Working Party on Facilitation of International Trade Procedures (reference: TRADE/WP.4/R.376) be circulated as a Committee document.

56. The representative of the European Communities said that his delegation had the same concerns as those exposed by the United States. Disquieting aspects of the problem included the apparently arbitrary rejection of exporters' prices, confidentiality questions and the transfer of responsibility for verification away from customs services. There were definite valuation questions involved that needed further exploration in the Committee.

57. The representative of Brazil said that his delegation also attached great importance to this issue and supported its retention on the agenda of the Committee for further information and discussion.

58. The representative of Australia said that her country had not had a great deal of difficulty with pre-shipment inspection although there had been instances where a company concerned had insisted on an uplift on prices when determining the customs value. This appeared to be inconsistent with the provisions of Article 7.2(b) of the Agreement. Her delegation also considered that requests for confidential information from exporters were contrary to the spirit of the Agreement, although not in direct breach of it. Her delegation supported further discussion in the Committee of the matter.

59. The representative of Argentina, said that on the basis of a first examination of the matter it appeared that the practices in question as they related to customs valuation were not justified. However, his

authorities had noted that the practices of these companies went beyond the scope of the Agreement, which was the valuation of goods for purposes of the application of ad valorem customs duties. In further exploration of the issue and consideration of the possible implications for the Agreement, this should be borne in mind. His delegation reserved its position pending further information on the problems arising and how it was proposed the Committee should attempt to deal with them.

60. The representative of the Republic of Korea said that his delegation shared the views of the United States on this matter. He understood that these practices had been adopted by some countries for essentially domestic reasons. However, the practices put a considerable burden on exporters in terms of time and cost. His delegation supported further study of the matter and efforts to strengthen cooperation among customs administrations in the exchange of information to deal with problems of valuation fraud and illicit export of capital.

61. The representative of Sweden supported the United States proposal for a further detailed discussion at the Committee's next meeting and hoped that the United States would be in a position at that time to provide information on progress in the implementation of their action programme.

62. The representative of Japan said his delegation was also concerned about this matter and supported further consideration of it in the Committee.

63. The Chairman offered the floor to any observer wishing to speak. No observer present wished to do so.

64. The Chairman, concluding the discussion, noted that there was widespread interest and concern in the Committee regarding pre-shipment inspection activities as they related to customs valuation. There was interest in further multilateral consideration of the matter and support for its further examination at the next meeting of the Committee. As a basis for discussion at that meeting, he urged Parties experiencing difficulties to present by the end of March 1987 information notes on national experience, indicating wherever possible, concrete examples of difficulties. He also suggested that the secretariat make available to Committee members information on developments in other fora, such as the ECE and ICC. He further invited interested observers, especially those employing pre-shipment inspection companies, to give their views in writing if they so wished. It was so agreed.

G. Annual Review of the implementation and operation of the Agreement

65. The Committee conducted its annual review of the implementation and operation of the Agreement on the basis of a secretariat background note, VAL/W/38, 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

66. The Committee adopted its annual report to the CONTRACTING PARTIES (L/6094).

I. Other business

(i) Panelists

67. The Chairman urged all Parties to nominate, at the beginning of 1987, persons available for panel service in 1987 or to confirm existing nominations, in accordance with the requirements of paragraph 2 of Annex III to the Agreement.

(ii) Dates of next meetings

68. The Committee agreed to hold its first meeting in 1987 on 11-12 May 1987 and to set aside tentatively 9-10 November 1987 as the dates for a second meeting in 1987.