

GENERAL AGREEMENT ON

RESTRICTED

VAL/Spec/26

7 April 1988

TARIFFS AND TRADE

Committee on Customs Valuation

DRAFT MINUTES OF THE MEETING OF 9 NOVEMBER 1987

Chairman: Mr. D. Satherstrom (Canada)

1. The Committee on Customs Valuation met on 9 November 1987.
2. The following agenda was adopted:

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A. <u>Accession of further countries to the Agreement</u>	
(i) <u>Mexico</u>	
3. The <u>Chairman</u> said that Mexico had accepted the Agreement on 24 July 1987, <u>ad referendum</u> , subject to the reservations under Section I, paragraphs 4 and 5 of the Protocol. Mexico had also invoked the provisions of Article 21, paragraphs 1 and 2 of the Agreement (VAL/31).	
4. The representative of <u>Mexico</u> said that the ratification of the acceptance of the Agreement was being considered at the present session of the Chamber of Senators of the Mexican Congress.	

5. In response to a question by the representative of the European Economic Community, the representative of Mexico confirmed that in accordance with the commitments that his Government had undertaken in the Protocol of Accession of Mexico to GATT, the current valuation system based on official prices would be replaced by a system based on the Brussels Definition of Value which would be applied during the delay of five years for the application of the provisions of the Agreement.

(ii) Zimbabwe

6. The Chairman informed the Committee that Zimbabwe had accepted the Agreement on 23 October 1987 subject to a three-year delay for the application of Article 1.2(b)(iii) and Article 6 of the Agreement. The Instrument of Acceptance of Zimbabwe, reproduced in document VAL/32 and Corr.1, included reservations under Section I, paragraphs 4 and 5 of the Protocol. Zimbabwe would implement the Agreement with effect from 1 January 1988.

(iii) Turkey

7. The representative of Turkey informed the Committee that the work in the National Assembly on the ratification of the Agreement had been suspended because of the elections of November 1987.

8. The Committee took note of the statements made under this item of the agenda.

B. Report on the work of the Technical Committee

9. The Chairwoman of the Technical Committee (Dr. A. Gancz, Austria) gave an oral report on the fourteenth session of the Technical Committee, held in Brussels from 5 to 8 October 1987, the full report of which is contained in CCC Document 34.380.

10. In connection with intersessional developments, the Chairwoman said that the Technical Committee had been informed of a special meeting which

had been held from 11 to 13 March 1987. The meeting had been organized in accordance with the Seoul Declaration of the Council, which recommended greater acceptance of the Agreement by CCC members, and with the purpose of giving non-signatory countries an opportunity to examine the problems faced in connection with their possible acceptance of the Customs Valuation Agreement. The Special Meeting had identified certain technical issues on which further studies could be undertaken by the CCC Secretariat or by the Technical Committee. Accordingly, the Secretariat had prepared Document 34.059 which provided a summary of the major problems and a suggested line of response. The Technical Committee had instructed the Secretariat to prepare a draft advisory opinion for consideration at its next session.

11. The Technical Committee had also been informed of a communication from a developing country Party stating its intention to propose an amendment to the Agreement. This and other matters relating thereto would be discussed at the December 1987 Session of the CCC Policy Commission. The Technical Committee would be kept informed of developments in this regard.

12. On the subject of technical assistance, the Technical Committee had been informed that the Council's technical assistance programme in the field of valuation had been progressing satisfactorily. A valuation training course in the Spanish language had been organized for the first time by the Council in collaboration with the Argentine Customs Administration. Held at Buenos Aires from 30 March to 10 April 1987, this course had been attended by thirty-two officers from seven South American countries. An officer of the Council, assisted by three Argentine Customs officers who had earlier attended a valuation training course in Brussels, had been in charge of conducting the course. Furthermore, the Eighth Training Course on the Agreement had been conducted in English language at the Council Headquarters from 25 May to 5 June 1987. It had been attended by nineteen participants from fifteen countries. The Technical Committee had also been informed that a valuation seminar in the French language would be conducted by the Council in collaboration with the Senegalese Administration in January 1988.

13. The Chairwoman of the Technical Committee also referred to the following two instruments relating to technical matters which had recently been adopted by the Technical Committee:

- A commentary on the application of the decision on the valuation of carrier media bearing software for data processing equipment examined the difficulties that were being encountered in administering the decision and in distinguishing the cost or value of the carrier media (Annex III to the Report). This commentary also set out guidelines for the application of the decision.
- An advisory opinion on the conversion of currency in cases where the contract provides for a fixed rate of exchange (Annex IV to the Report). In cases where the invoice expressed the price of the goods in a foreign currency and the parties had agreed upon a fixed rate of exchange, the conversion of currency was not necessary if the settlement of the price was made in the currency of the country of importation. The Technical Committee had further decided to illustrate the advisory opinion with examples and also to examine a case submitted by Finland on the subject during its forthcoming session.

12. Continuing her report, the Chairwoman of the Technical Committee referred to a number of other technical matters which had been examined by the Technical Committee:

- An advisory opinion on the meaning 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" and on the determination of the rights and obligations of the Customs administrations and the importers within the context of related party transactions. The Committee had agreed to instruct the Secretariat to revise the document in the light of written comments and oral observations that had been made during the meeting.

- Taking into account the divergences of opinion that had been registered during the previous session and the need to formulate an instrument on the meaning of the expression "activities undertaken by the buyer on his own account after purchase of the goods but before importation", the Committee had decided to retain the relevant item on the agenda of its next session and had instructed the Secretariat to prepare a document, using the examples which had already been provided.
- A draft commentary had been prepared by the Secretariat on the practical application 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". This draft commentary dealt with situations where the sale or price was subject to a condition or consideration for which a value could be determined with respect to the goods being valued. The Technical Committee had agreed that if the value of a condition or consideration could be determined, it could be considered to be part of the price paid or payable. It had decided to revert back to this issue at its next session and had instructed the Secretariat to revise the draft commentary along the lines which had been agreed upon.
- In accordance with the instructions of the Technical Committee, the Secretariat had issued a questionnaire during the intersession soliciting information on national practices with regard to the administration of the method for the determination of the amount for commission or profit and general expenses, as used in deductive and computed value methods. Subsequently, two documents had been prepared reproducing some of the replies received along with two draft commentaries, emphasizing the treatment of cases where the usual amounts for profit and general expenses constituted a range and the importer's figures fell outside the range. Following a paragraph by paragraph examination of the document, the Technical Committee had decided to defer the consideration of the subject until its next session,

and had instructed the Secretariat to redraft the document by taking into account the views expressed.

- After examining the question of the treatment of quota charges under Article 1 at its thirteenth session, the Technical Committee had recognized that the term "quota charge" in its applicability within the Code was subject to wide interpretation which made it difficult for members to arrive at a consensus opinion. Therefore the subject had been deleted from the agenda in order to allow time for further reflection on the basis of practical experience. However, at the seventeenth session of the Policy Commission and at the 69th/70th sessions of the Council, the delegate of Sweden had expressed his administration's concern at the lack of agreement and had proposed the continuation of work on the subject. The Secretariat had included the question in the draft agenda for the fourteenth session and had invited administrations to send suggestions on a working document for the final settlement of the question. The Swedish Administration had also submitted two example cases: quota charges paid by the buyer first, to the seller of the goods, and secondly to a third person. After a preliminary discussion on these cases, the Technical Committee had decided to pursue its examination of the question at the next session.

13. Concluding her report, the Chairwoman of the Technical Committee said that, in addition to the questions already referred to in the preceding paragraphs, the following items had been included in the agenda for the fifteenth session, to be held on 14-17 March 1988.

- Buying commissions: case study;
- Scope and implication of Article 11;
- Implications of Article 13;
- Application of Article 17 and paragraph 7 of the Protocol.

14. The representative of the United States, referring to the information received by the CCC Secretariat on the subject of a proposed amendment,

said that the mandate of the Technical Committee in Annex II of the Agreement did not extend to consideration of amendments to the Agreement. The Technical Committee could examine the technical aspects of relevant questions if so requested by the Committee on Customs Valuation. The Chairwoman of the Technical Committee said that the matter had not been included in the agenda of the current meeting of the Committee. The CCC Secretariat had been given information on this point by the Party that had made the proposal for the amendment.

15. The Committee took note of the report of the Chairwoman of the Technical Committee.

C. Information on Implementation and Administration of the Agreement

(i) Argentina

16. The representative of Argentina introduced document VAL/1/Add.22 which contained the text in Spanish of Decree No. 1.026 of 25 June 1987, implementing the Agreement in Argentina, as well as the responses by Argentina to the revised checklist of issues circulated in document VAL/2/Rev.2/Add.4. The national legislation included reservations (i) under paragraph 4 of Section I of the Protocol concerning the reversal of the sequential order of Articles 5 and 6; (ii) under paragraph 5 of Section I of the Protocol with respect to the application of Article 5.2 of the Agreement; (iii) under Article 21 of the Agreement for a delay in the application of Articles 1.2(b)(iii) and Article 6.

17. The representative of Argentina further drew the attention of the Committee to the following aspects of his country's implementing legislation: (a) the official prices or minimum customs values were abolished as being contrary to Article 7, paragraph 2(f) of the Agreement (Article 4 of the Decree No. 1.026/87); (b) the place where the first customs formalities took place was defined as the place of importation for the implementation of Article 8, paragraph 2 of the Agreement (Article 5 of the Decree); (c) the adjustment measures under Article 8, paragraph 2 of

the Agreement were included in the customs value (Article 5 of the Decree); (d) the cost of transport of the goods within the country was excluded from the customs value (Article 6 of the Decree); (e) the Decision of 26 April 1984 on the treatment of interest charges in the customs value of imported goods (VAL/6/Rev.1) was being applied (Article 7 of the Decree); (f) the conversion rate applicable at the time of importation of goods had been selected under the option available in Article 9.2 of the Agreement (Article 8 of the Decree); (g) the confidentiality of information was protected. The information could only be transmitted with the agreement of the interested party except in cases where it was requested by the judiciary authorities (Article 11 of the Decree); (h) the withdrawal of goods from customs under guarantee in terms of Article 13 of the Agreement was provided in the Customs Code (Article 12 of the Decree); (i) an initial right of appeal to an administrative authority and a right of appeal to a judicial authority at a later stage under Article 11 of the Agreement was stipulated in the Customs Act (Article 13 of the Decree).

17. The Committee took note of the statement by the representative of Argentina and invited Parties having questions to provide them in writing to the delegation of Argentina prior to the next meeting.

(ii) Brazil

18. The representative of the United States informed the Committee that, in accordance with paragraph 2 of the Decision of 13 June 1986 on the Brazilian reservation under paragraph I:3 of the Protocol, consultations had been held between his delegation and the delegation of Brazil for the removal of certain products from the lists of products subject to minimum values and reference prices. The representative of Brazil said that his authorities were in the process of considering this matter with a view to reaching a mutually satisfactory solution. The Committee took note of the statements made.

19. The Committee agreed to revert to the implementing legislation of Brazil at its next meeting in the light of replies to be provided by the delegation of Brazil in response to the questions that had been raised by certain Parties.

(iii) Czechoslovakia

20. The representative of the European Economic Community sought further clarification on Section 47(5) of the Customs Act No. 44/1974 of Czechoslovakia which provided for the determination of the price of goods according to the experience of the customs house or on the basis of expert opinion produced at the cost of the party to the customs proceedings (reproduced on page 8 of document VAL/1/Add.18). He said that while in its written reply to a question by his delegation, the delegation of Czechoslovakia had maintained that this section applied to non-commercial goods only, the provisions thereof did not refer explicitly to such goods.

21. The representative of Czechoslovakia said that the Instruction on Customs Valuation of the Central Customs Administration of the Federal Ministry of Foreign Trade of 1986 ensured the full implementation of the relevant provisions of the Agreement in his country. While Section 47(5) of the Customs Act did not specifically mention its application to non-commercial goods, Section 1(3) of the Instruction expressly stated that "if the customs value cannot be determined in accordance with the principles set forth in sections 2, 4, 5, 6 or 7 hereof, then the customs value shall be determined by the respective customs authority on hand of data available in the country of importation" (VAL/1/Add.18/Suppl.1, page 15).

22. In expressing his view on this point, the representative of Argentina said that a determination of the price of the goods on the basis of expert opinion would be in conformity with the Agreement to the extent that such a determination was limited to cases where the customs value could not be determined under Articles 1 to 6 but under Article 7 of the Agreement.

23. The representative of the European Economic Community said that while the instructions to the staff of the Customs Administration might contain interpretations of the basic law, certain provisions of the Customs Act which was the superior legislation, were not in conformity with the Agreement. He expressed the hope that the Czechoslovak authorities would rectify the situation so as to ensure the conformity of Section 47(5) of the Customs Act with the relevant provisions of the Agreement.

24. The representative of Czechoslovakia said that the purpose of the Instruction on Customs Valuation, as stated in its Section I.3, was "to ensure uniform construction of the customs value and its technical application by customs authorities (offices) while determining the same for customs purposes, more particularly, levy of the customs duties on commercial goods and of customs statistics." The present legislation implementing the Customs Act ensured the compliance of Czechoslovakia with the obligations of the Agreement. However, he asserted that the matter referred to by the representative of the European Economic Community would be taken into account in a future amendment to the Customs Law.

25. The representative of Hungary stated that the Agreement did not specify the level at which various implementing legislation should be stipulated in order to ensure their compliance with the Agreement. It was up to the Committee to determine whether national legislation of a Party in the form of laws, regulations and administrative procedures, ensured its compliance with the provisions of the Agreement. The Instruction of the Customs Administration spelled out the conformity of the Czechoslovak valuation system with the provisions of the Agreement in a more explicit way than the provisions of Article 47(5) of the Customs Law.

26. The Committee took note of the statements made and agreed to revert, as necessary, to the matter at such time when any amendments would be submitted by the Government of Czechoslovakia.

(iv) India

27. The representative of India referred to the extension of the delay in the application of the Agreement which had been granted to his country until 1 October 1987 (VAL/M/20, paragraph 49). He said that the legislative bill for the amendment of the existing customs legislation had been submitted to the Parliament at its session held in July-August 1987. While it had not been possible for the Parliament to proceed with the matter in that session because of other pressing matters, it was expected that the introduction of the bill would be considered by the Parliament at its session in November-December 1987. His delegation had initiated consultations with other Parties on this subject.

28. The representative of the United States said that his delegation regretted that the Government of India had not been able to fulfil its obligations under Article 25, although the Committee had been flexible in granting the extensions of the delay. His authorities hoped that the Indian Government would enact the legislation as soon as possible in order to bring its customs law into conformity with the Agreement. Meanwhile, his authorities did not consider that the United States had any obligations under the Agreement vis-à-vis India as long as the Government of India had not complied with its obligations under the Agreement.

29. The representative of the European Economic Community said that his delegation was also concerned about this matter. The Community authorities expected India to proceed with the enactment of the bill which would enable India to comply with the provisions of the Agreement.

30. The representative of India informed the Committee that his delegation had had consultations with the delegation of the United States on this matter. He added that the three-month extension which had been granted at the previous meeting of the Committee had not been sufficient for the enactment of the legislation due to circumstances beyond the control of his Government. The technical problem which was being faced by his authorities would have been avoided had there been a sufficient degree of flexibility at the initial stage, when the Committee had the opportunity to consider the matter in the light of the detailed explanations given by the officials from the customs administration of his country. At every stage of the consideration of the matter by the Committee, his authorities had tried to bring their legislation into conformity within the limited time periods of the extensions which had been reluctantly granted.

31. The Committee took note of the statements made. It also invited the delegation of India to submit the implementing legislation and checklist of issues as soon as possible after the enactment of the relevant amendments.

(v) Republic of Korea

32. In response to a question by the delegation of the European Economic Community concerning the conformity of Article 32.3(3) of the Detailed

Enforcement Regulations on Customs Assessment with Article 8.4 of the Agreement (VAL/1/Add.19/Suppl.2, page 56), the representative of the Republic of Korea explained that customs duties on goods from a bonded factory were collected three months after the importation of the goods due to the manufacturing process of the raw materials. The amount collected, based on the number of days exceeding the three months period was used to dissuade importers from submitting their declaration after three months.

33. The representative of the European Economic Community reverted to the written answer by the delegation of the Republic of Korea to a question by his delegation (VAL/W/39, page 2), and asked whether Articles 9.9, 9.10 and 9.11 and the related provisions had been deleted from the Customs Law. The representative of the Republic of Korea said that while these Articles had been inoperative since 5 February 1986, the date of entry into force of the Agreement for his country, the legislative procedures for the amendment of the Customs Law in this respect had not been completed.

34. The representative of the United States said that in its written answer the delegation of the Republic of Korea had explained that the reference in Article 17.5 of the Detailed Enforcement Regulations to the ten per cent difference as the margin to be used was meant to give an initial basis for judgement in determining whether one value "closely approximates" another value. The United States' delegation considered that the establishment of such percentage was contrary to the Agreement even if it was for indicative purposes only. In their view, setting any percentages had been deliberately avoided in the Agreement so that different circumstances could be addressed without arbitrary constraints. The Republic of Korea said that the ten per cent was only a guideline limit to facilitate the valuation procedure. No further action was taken if the declared value fell within the limit of ten per cent. In cases where the deviation was more than ten per cent, the customs official checked the declared value taking into account factors such as the nature of the imported goods or the industry itself, and the season in which the goods were imported.

35. The representative of the United States referred to the answer given by the delegation of the Republic of Korea as to the meaning of the term

"intensified valuation goods". In the view of his delegation, Article 39 of the Detailed Enforcement Regulations (VAL/1/Add.19/Suppl.2, pages 61-62) laid down a valuation principle which had no basis in the Agreement. The designation of intensified valuation goods appeared to be intended to serve, among others, as a policy instrument in situations where, for example, imported goods might have adverse effects on the domestic industry. The representative of the Republic of Korea denied this contention by the representative of the United States. His authorities had experienced many cases of fraudulent declaration of value on items which were subject to high tariffs. The only purpose of the regulations was the determination of customs value after establishing the facts concerning the transactions.

36. The Committee took note of the statements made and agreed to conclude the examination of the implementing legislation of the Republic of Korea. It also encouraged the delegation of the Republic of Korea to submit any changes to its legislation as they might occur.

(vi) Lesotho

37. The Chairman drew attention to the amendments to certain sections of the legislation of Lesotho which had been circulated in document VAL/1/Add.21/Suppl.1. He noted that no questions had been received from other members. He invited the Committee to complete its examination of the legislation of Lesotho, with the understanding that the Committee could revert to any questions in this respect at future meetings. It was so agreed.

(vii) Status of the application of the Committee decisions on interest charges (VAL/6/Rev.7) and computer software (VAL/8)

38. The Chairman noted that the status of information on the application of the two decisions was given in document VAL/W/34/Rev.3. He urged all delegations that had not done so to submit the required information. The Committee agreed to revert to this item at its next meeting.

D. Private Companies engaged in Customs Valuation

39. The representative of Mexico informed the Committee about the Eighth Meeting of the Directors of National Customs Administrations which had been held in Ecuador on 27-30 October 1987, with the participation of delegations from thirteen countries in South America and from Spain and Portugal. Delegations from the United States and Canada, and observers from seven international organizations had also been invited to attend the meeting. Following the discussion of the subject of pre-shipment inspection under the agenda item on customs valuation, it was agreed: (a) to avoid, discourage or eliminate the intervention of third parties in customs valuation which remained exclusively within the competence of the national customs authorities; (b) to note that the intervention of third parties in the determination of the value of goods was expensive and burdensome, increased the cost of transactions in external trade, constituted an obstacle to the said transactions, and was incompatible with the existing national valuation systems; (c) to underline that expenses represented by the intervention of third parties could be used for the improvement of the operative structure of the customs administrations, as well as for the training of the staff responsible for this task; (d) to recommend that the conclusions reached in the previous paragraphs be taken into account in countries where third parties currently operated in customs valuation; and (e) to recommend that national customs valuation administrations base their valuation systems on Article VII of the GATT.

40. The representative of the European Economic Community said that his authorities continued to be concerned about such practices as interference with legitimate pricing arrangements or with contracts freely entered into in the normal course of trade, which appeared not to be in conformity with the provisions of the Agreement. As customs valuation was only one aspect of the broader trade policy issues involved concerning the activities of the relevant companies, it might be more appropriate to discuss this matter in the context of a wider forum, while maintaining the possibility of reverting to it in the Committee in the light of further developments.

41. The representative of Sweden said that the Nordic countries had noted the proliferation of the activities relating to pre-shipment inspection

(PSI) both as regards the growing number of developing countries using their services and the spread of the control activities into new areas. The Nordic countries recognized it as being fully legitimate that the buyer or the seller employed the services of a control company on his own behalf for the quality or quantity inspection. From the viewpoint of the Committee on Customs Valuation, the essential question was the influence of the price inspection on the determination of customs value. Except for Mexico, the countries requiring pre-shipment inspection were not Parties to the Agreement on Customs Valuation although many of them were contracting parties to the GATT. In the circumstances, an examination could be made as to whether the PSI value, if used as customs value, was contrary to Article VII of the GATT ("actual value"). The Committee had to consider the fact that a control company sometimes interfered in the process of establishing the price payable for the goods when sold for export, and thus influenced the transaction value. The Nordic delegations were also concerned that in the course of controlling the value of goods, the PSI companies might gather and use confidential information which could not be revealed by the customs authorities which were bound by the legislation in force. Any alteration of the transaction value, as defined in Article 1 of the Code, as a result of control company activities, would create a problem of interpretation of the Agreement. The PSI activities in the field of customs valuation was, therefore, a matter within the competence of the Committee on Customs Valuation.

42. The representative of Sweden also said that the Committee could review the possibilities offered by other international agreements, such as the Nairobi Convention accepted by the CCC in 1977, for combating under- and over-invoicing. Furthermore, there were several recommendations enabling administrative assistance for the investigation and elimination of customs fraud. These investigations should naturally be carried out through the CCC. He recalled that several of the countries requiring the services of PSI companies were members of the CCC. In his view, a comprehensive and effective co-operation between customs administrations would be essential in order to eliminate the need for PSI by private companies. He supported the view that had been previously expressed by other Parties that the matter under discussion had wider aspects. Therefore, the Nordic countries believed that the matter should be considered in an appropriate forum which

would also address any aspects of the question that would have to be taken up in the context of the Uruguay Round of Negotiations.

43. The representative of Japan said that his authorities had not received any complaints from traders in his country as regards the activities of PSI companies. It was felt in his country, that the introduction of PSI programmes could reduce the administrative burden of customs clearance and could assist in dealing with adverse effects of trade malpractice. His delegation considered that the points which had been raised by the delegation of Indonesia in document VAL/W/44, concerning the expedited processing of sea-cargo and reduction of import and export costs through PSI programmes, should be taken into account. He added that the trade effects of PSI activities should be examined in the light of specific programmes in individual countries. Such an examination should address in particular the extent to which the transparency of customs valuation procedures could be ensured by the countries employing the services of PSI companies; and the kind of measures that could be taken by these countries to prevent abuse of confidential business information and to protect exporters' rights. However, it would be difficult for the Committee to take decisions in this respect as the countries which mainly used the PSI programmes were not signatories of the Customs Valuation Agreement. A solution to the issue could be more appropriately sought in a broader context.

44. The representative of Argentina said that companies dealing with PSI gave advice to governmental authorities not only on matters relating to customs valuation but also on matters relating to quality of goods and transaction of foreign currency. The Committee would be the appropriate forum for discussing problems relating to customs valuation only to the extent that PSI programmes were carried out in countries Parties to the Agreement. In that event, any disputes between Parties to the Agreement relating to these programmes could be addressed under the dispute settlement provisions of the Agreement. The Committee also had the possibility of obtaining information on developments in this respect in other GATT fora.

45. The representative of Switzerland supported the view expressed by the representative of Argentina. The Committee did not have the competence to

deal with a customs valuation practice which was carried out mainly in non-signatory countries. He suggested that the Committee suspend the discussion of the matter until a problem concerning the valuation practices of these companies arose among Parties to the Agreement.

46. The representative of New Zealand said that his delegation was concerned with the development of PSI programmes and that the matter should be maintained on the agenda of the Committee until it was pursued in a more appropriate forum.

47. The representative of the United States said that his delegation was still considering ways of addressing the problem of PSI engaged in customs valuation on behalf of national customs authorities. They had noted the views expressed by a number of delegations on the appropriateness of examining the broader aspects of the issue in a different forum. While the countries that employed PSI companies were not Parties to the Agreement, the discussion of the issue in the Committee should not be discontinued at this stage because of the interest among the Committee members from the exporters' point of view.

48. In concluding the discussion on this item, the Chairman invited the Committee to take note of the information provided and the views expressed, including those by several delegations that the issue might relate to the on-going GATT work or to the negotiations in the Uruguay Round. He suggested that the matter be kept on the agenda. It was so agreed.

E. Technical Assistance

49. The representative of New Zealand informed the Committee that his Government had provided technical assistance to Papua New Guinea for the adoption of the valuation system based on the Agreement. The assistance included the development of customs legislation and internal instructions as well as training programmes for the customs officials and the commercial community.

50. The representative of Mexico said that the subject of technical assistance had been discussed in a meeting held on 21-24 October 1987 with the participation Directors of Customs Offices from the countries of the Caribbean region, and from the United States, France and Canada. This meeting had also initiated a discussion on the automation of customs systems. Mexico had benefited from the support of the French customs officers in respect of the use of computerized systems, which would facilitate the adoption of the Harmonized System as of next year. The representative of Mexico suggested that the Committee discussed the provision of technical assistance for computerized valuation systems which would allow the detection of fraudulent declarations of value on the basis of established parameters.

F. Annual review of the implementation and operation of the Agreement;
Annual report to the CONTRACTING PARTIES

51. The Committee conducted its annual review of the implementation and operation of the Agreement on the basis of a secretariat background note, VAL/W/45, 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.

52. The Committee adopted its annual report to the CONTRACTING PARTIES (L/6266).

G. Other Business

(i) Botswana's status as a GATT contracting party

53. The Committee took note that Botswana, which had acceded to the Agreement on 12 September 1984 under Article 22.3, had become a contracting party to the General Agreement as from 28 August 1987.

(ii) Revised valuation system of Papua New Guinea

54. The Committee noted that the Papua New Guinea Customs had adopted the revised valuation system, based on the GATT Agreement, with effect from 1 July 1987 and that the relevant documents were available for consultation in the secretariat.

(iii) Request for information from the Negotiating Group on MTN Agreements and Arrangements

55. The Chairman drew attention to the report of the second meeting of the Negotiating Group on MTN Agreements and Arrangements (NG8) which had been circulated in document MTN.GNG/NG8/2 and said that the Chairman of the NG8 had requested, on behalf of that Group, that the Committees of the MTN Agreements and Arrangements provide the Group with information on their work, including information on any informal meetings. In this connection, he suggested that the Notes by the Chairman issued after each meeting in the L/- series of documents be transmitted to the Group.

56. The representative of Mexico said that some flexibility should be maintained in the transmission of information to the NG8. The Committee should be prepared to provide further information in areas where information in the notes by the Chairman were not considered to be adequate for the purposes of the discussion of the relevant issues in the NG8, it being understood that the transmission of additional information in response to specific requests by the NG8 would be on the basis of a Committee decision.

57. The representative of Brazil said that transmission of information on the work of the Committee would contribute to greater transparency in the negotiations. He also saw merit in the preparation of an indicative and non-exhaustive list of subjects relating to the issues covered by the Agreement for transmission to the NG8.

58. The representative of the United States said that the notes by the Chairman issued after each meeting could be transmitted in response to the request by the Chairman of the NG8. However, he had doubts about the

usefulness of transmission of documents relating to more interpretative aspects of the Agreement, such as advisory opinions, commentaries and case studies prepared by the Technical Committee.

59. The representative of the European Economic Community said that any request for technical information on a particular aspect of the work of the Committee should be brought to the attention of the Committee.

60. The Committee agreed that the Notes by the Chairman issued in the L/-series of documents be transmitted to the NG8 after each meeting. It also agreed to revert to the question of providing further information in the light of any specific requests from the NG8.

(iv) Proposal by India to the Negotiating Group on MTN Agreements and Arrangements

61. The Chairman drew attention to a proposal which India had submitted to the NG8 on the "burden of proof regarding transaction value" (MTN.GNG/NG8/W/9, Section (ii)).

62. The representative of the United States said that his delegation did not consider the issue which had been raised by the delegation of India as being a problem for any country that was currently applying the Agreement. Article 17 established the right of national customs authorities to satisfy themselves as to the truth or accuracy of any information. Some Parties might have found it necessary to adopt a system of intensified valuation of goods. In their view, Article 17 and paragraph 7 of the Protocol emphasized that full co-operation of importers was expected in any phase of enquiries on fraud. His delegation did not believe that it was necessary to amend the provisions of the Customs Valuation Agreement in this respect. The representative of New Zealand supported the statement by the representative of the United States.

63. In response to a question by the representative of New Zealand, the observer from the Customs Co-operation Council informed the Committee that a similar point had been raised by India in the Policy Commission of the CCC.

64. The Committee took note of the statements made and agreed to revert to this subject at an appropriate time.

(v) Linguistic consistency

65. The Chairman informed the Committee that the Customs Co-operation Council had drawn the attention of the secretariat to a possible discrepancy between the French text and the English and Spanish texts of paragraph 1 of the Notes to Articles 2 and 3. In the French text, the first sentence ended with the words: "... et portant sensiblement sur la même quantité que la vente des marchandises à évaluer." The word which is underlined did not appear in the English and Spanish texts of the same sentence. He invited the members of the Committee to reflect on the point raised by the observer from the CCC before the Committee reverted to the discussion of this matter at its next meeting. It was so agreed.

(vi) Panel candidates for 1988

66. The Chairman recalled that in accordance with the requirements of paragraph 2 of Annex III to the Agreement, Parties would be expected at the beginning of 1988 to nominate persons available for panel service in 1988 or to confirm existing nominations. He urged all Parties to communicate the relevant information, through the secretariat, as soon as possible.

(vii) Dates of the next meeting(s); draft agenda of the next meeting

67. The Committee reconfirmed 3 May 1988 as the date of its next meeting and agreed on 14 October 1988 as a tentative date for its subsequent meeting. The following draft agenda was agreed for the next meeting:

- A. Election of officers for 1988
- B. Accession of further countries to the Agreement;
- C. Report on the work of the Technical Committee;

- D. Information on implementation and administration of the Agreement;
- E. Private companies engaged in Customs Valuation;
- F. Technical assistance;
- G. Other Business.