

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENTSECRETARIAT NOTE ON ARTICLE 18.

(Tariff Valuation)

The present note has been prepared for the convenience of the Sub-Committee established on May 20, 1947, to deal with Article 18, composed of the Delegates for Australia, Canada, China, France, the Netherlands, the Union of South Africa, the United Kingdom and the United States.

The note, which should be read in conjunction with the Report of the Drafting Committee (E/PC/T/34), referred to as "D.C. Report" below, includes amendments incorporated in the Annotated Agenda (W/28), arranged by the Secretariat as well as those proposed subsequently (W/36, W/37, W/37 Corr. 1, W/57, W/58, W/78, W/90).

In quotations of the proposed texts, deletions and additions are, where practicable, indicated respectively by square brackets or underlining.

Paragraph 1.

The word "shall" might be substituted for "undertake" (in the first line) to conform with other articles.

Paragraph 2, preamble.

1. The delegates referred to under (a) - (c) of the comments to this paragraph in the D.C. Report (page 14) represented the following countries:

- (a) Belgium-Luxembourg, Czechoslovakia and the Netherlands;
- (b) China;
- (c) Netherlands.

2. The suggestion under (c), made at the First Meeting of the Preparatory Committee, is summarised below:

- (i) The importer should submit to customs authorities all his private documents relating to each importation.

- (ii) Customs officers shall have the right to examine private records of importers.
 - (iii) In case of litigation as to value, imports shall not be impounded but shall be released to the importer, subject to adequate provisions for securing the revenue (Article 8 of the Geneva Convention of 1923)
 - (iv) Value litigation shall be tried specially before an independent tribunal of competent experts where the importer will be heard.
 - (v) Fines may be imposed upon importers for under-valuation.
3. The United Kingdom (cf. W/90) proposed to insert, in the 6th line: after "charges or restrictions" the words "on importation or exportation".
4. The word "shall" may with advantage be substituted for "undertake" in line 8 of the preamble.

Paragraph 2 (a).

1. The following new alternative text of paragraph 2 (a) is suggested by the Canadian Delegation (cf. W/24) :

The value for duty purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.

"Actual Value" shall be based on the price at which at a time and place determined by the legislation of the country of importation, and in the ordinary course of trade between independent buyer and seller, such or like imported merchandise in comparable quantities and under similar conditions of sale is sold or offered for with price as the sole consideration.

If such actual value be not ascertainable on the basis of the preceding paragraph, then the value for duty purposes should be based on the nearest ascertainable equivalent of such value.

2. The Delegations of Belgium, France, Luxembourg and the Netherlands (cf. W/58) support the proposal of the Canadian Delegation but wish to add the following paragraph thereto:

" In practice, and in the case of an ordinary bona fide transaction, it shall be permissible for the assessed value to be determined on the basis of the purchase price shown on the invoice, charges incurred subsequent to the purchase of the goods being taken into account when necessary (but without adding the amount of taxes and duties levied in the importing country, if these are included in the price). This shall only apply, however, if this price is not lower than the value resulting from the application of the foregoing definition".

3. The South African Delegation (cf. W/57) also supports the proposal of the Canadian delegation, but desires the following amendments thereto:

- (a) In the second paragraph, for the words "in comparable quantities" substitute the words "in either comparable or fair average wholesale quantities".
- (b) Insert the following new third paragraph (the existing third paragraph to become the fourth paragraph):
"The method for definition of quantities chosen shall be maintained to the exclusion of the other throughout".
- (c) Insert the following new fifth paragraph:
"At the discretion of the government of the country of importation, an alternative basis of valuation for duty purposes should be the actual money price paid or to be paid for the goods by the importer plus any special discount or allowance or other special deduction which the legislation of the country of importation prescribes shall be included in the value for duty".

4. The Delegation of China (cf. W/78) proposes deletion of Alternative A and insertion in Alternative B, line 9, after "sold or offered for sale", of the words "in the ordinary commercial acceptance of the term, or are capable of being sold,...."

Paragraph 2 (c).

1. The United States Delegation suggests deletion of sub-paragraph 2 (c) (cf. W/23, page 4).
2. The delegates reserving their position with reference to sub-paragraph 2 (c) (cf. D.C. Report, page 14) represented the United States and China respectively.
3. The Delegations of France, Belgium, the Netherlands and Luxembourg (cf. W/36) propose the following wording:

"In converting the value of any imported product from one currency to another for the purpose of assessing duty, the rate of exchange to be used should be that fixed by the monetary agreements or by decisions of the Monetary Fund".

Paragraph 2 (d).

The Delegations of France, Belgium, Luxembourg, and the Netherlands (cf. W/37 and W/37 Corr.1) propose the following amendments:-

"The bases and methods for determining the value of products subject to duties or other charges or restrictions based upon or regulated in some way by value should be stable and should be given sufficient publicity particularly to enable traders to estimate with a reasonable degree of certainty, the amount of duty likely to be imposed".