

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/228/Add.3

26 November 1954

Limited Distribution

VALUATION FOR CUSTOMS PURPOSES

Questionnaire for the Ninth Session

Addendum

Statements received from Governments

Replies to the questionnaire in L/228 have been received from the following governments and are reproduced herewith:

| | <u>Page</u> |
|-----------------|-------------|
| The Netherlands | 2 |
| Pakistan | 13 |
| Sweden | 15 |

N E T H E R L A N D S

(Translation)

Preliminary remarks

The legal provisions of The Netherlands relating to valuation for customs purposes reproduce the definition appended to the Brussels Convention on the Valuation of Goods for Customs Purposes of 15 December 1950, while taking due account of the Interpretative Notes to that definition.

For that reason, the replies given below are based on the Brussels Definition which, in fact, is the definition commonly used in The Netherlands.

Question 1.

No. The Brussels Definition does not authorize the introduction into the legislation or into administrative regulations of provisions permitting valuation for customs purposes to be based on arbitrary or fictitious values.

Question 2.

No, for the reason indicated in the reply to Question 1.

Question 3.

The Netherlands legislation establishes, in accordance with the Brussels Definition, a standard value which is the actual value of the imported goods on which duty is to be assessed. This concept is expressed by the following provision:

For the purposes of levying import duties, the value of the goods is deemed to be the normal price, that is to say, the price which they would fetch, on the day of declaration, on a sale in the open market between buyer and seller independent of each other.

Question 4.

According to the Brussels Definition, the normal price is deemed to be the price which the imported goods would fetch when customs duties become payable.

Under Netherlands legislation, customs duty becomes payable from the time the declaration of goods for home consumption is presented. Consequently, the date of declaration is accepted in Netherlands legislation as the time to be taken into consideration for valuation purposes.

Question 5.

Neither Netherlands legislation nor the Brussels Definition define the place where the goods to be assessed are supposed to have been sold or offered for sale.

Netherlands
(continued)

The Definition merely determines the place of delivery of the goods following a sale which may have been carried out anywhere.

The place of delivery for purposes of customs valuation is the first port or place of introduction into the territory of the importing country.

Question 6.

- (a) Not used as a basis of valuation.
- (b) Not used as a basis of valuation.
- (c) According to the Brussels Definition and Netherlands legislation, customs valuation is based on the price at which imported goods are freely available to any buyer in the open market at the port or place of introduction into the territory of the importing country.

Question 7.

Where the price depends upon quantity, the price used for valuation is uniformly that which relates to quantities comparable to the quantity to be valued.

In accordance with the recommendation in the Interpretative Note to Article I of the Brussels Definition, the price paid or payable (invoice price) is accepted as a basis of valuation when the imported goods are the subject of a bona fide sale in the open market, subject:

- (a) to proper safeguards aimed at preventing evasion of duty; and
- (b) to such adjustment of the contract price as may be considered necessary on account of circumstances differentiating the contract from the notional concept embodied in the Definition of Value.

In these circumstances, the price paid or payable (invoice price) may be accepted as a basis of valuation provided that the interval between the time of sale and the time of delivery of the goods does not exceed the customary interval in the branch of industry concerned.

When the invoice price cannot be accepted for valuation purposes, the value of the goods must be determined on the basis of the normal price.

To obtain the normal price the following methods are used:

- (a) the invoice price is adjusted to bring it into line with the estimated value of the goods;
- (b) the sale price in the importing market is adjusted to take account of the costs, duties and charges levied on the goods after or at the time of importation, and of the profits on them after importation.

In The Netherlands, the normal price of goods is not determined on the basis of cost of production of the imported goods.

Netherlands
(continued)

Another method of valuation which the Brussels Definition permits in the last resort is determination of the normal price on the basis of the actual price of other imported competitive goods.

Question 9.

The Brussels Definition provides a sole criterion on which all valuations must be based, and it is therefore unnecessary to include alternative methods of valuation in national legislation.

Question 10.

In accordance with Interpretative Note 2 to Article 1 of the Brussels Definition, dutiable value does not include duty and taxes from which the goods have been exempted in the exporting country, or the amount of which has been or is to be repaid. This exclusion is of a general nature and is not confined to specific duties and taxes.

Question 11.

When customs valuation has to be determined on the basis of foreign currency, conversion into Netherlands currency is effected at the current rates of exchange in Amsterdam on the morning of the day on which the declaration is made.

Question 12.

In The Netherlands a charge equivalent to the internal conveyance tax is levied on imports, this charge being based on dutiable value plus:

- (a) transport costs to the place of clearance; and
- (b) all dues and charges levied on imports into The Netherlands.

The Netherlands export trade has met with serious difficulties resulting from the valuation methods adopted in other countries.

The importers in a certain country never know in advance what price will be accepted for customs valuation. For some consumer goods, the export price was accepted for a certain time, but subsequently that price was contested and customs valuations were based on the price in The Netherlands home market, which, still later, ceased to be acceptable because in the terms of the legislation of the country in question the goods were never "put on the market freely". Finally, import duty had to be calculated on the basis of prices of production or on the internal price on the importing market. In the case of another consumer article, the export price (invoice price) not being acceptable, resort had perforce to be had to internal prices in The Netherlands, but in view of the fact that in that country most of the deliveries are made in small quantities, the dutiable value had to be based on the sale price to retailers, although the quantity to be imported was considerable. For household goods also the methods of valuation in the country in question are causing serious difficulties: for products manufactured exclusively for export, the export price is accepted, while for goods of practically the same nature but produced also for home consumption, it is the home-market price which is accepted by the customs authorities.

Netherlands
(continued)

The importation of electrical goods into the country referred to above was practically impossible on account of the fact that in The Netherlands such goods were liable to a very high luxury tax which had to be included in the dutiable value.

In the case of certain textile products for which the export price was, in principle, taken as a basis of valuation, the actual invoice prices were not generally accepted on the pretext that a price granted in the past for other consignments of the same goods should be followed.

In the above-mentioned cases, the importers who are uncertain as to the amount of duty payable cannot fix their sale prices and run the risk during long months of having to pay an unpredictable supplement on import duty.

To sum up, the factors described below form a grievous and regrettable barrier to honest trade:

- (a) Uncertainty concerning the methods of valuation likely to be adopted by customs authorities; the excessive delay necessitated by procedure which leaves in suspense the total amount to be paid;
- (b) the determination of valuation on a basis which in certain circumstances results in the application of very special provisions concerning marketing conditions in the exporting country;
- (c) the determination of valuation based on the delivery of less favourable quantities than those provided for in paragraph 2(b) of Article VII of the General Agreement;
- (d) the inclusion in customs valuation of internal taxes in force in the exporting countries but from which the imported goods have been exempted.

Similarly, The Netherlands export trade is greatly hampered in some countries by the habit of basing valuation primarily on market prices in the exporting country. This system is very disadvantageous for small countries which have a fairly limited home market. The disadvantage becomes even greater when the system referred to is based on prices for deliveries in small quantities. In many cases, the system results in the exports from countries with a limited national market being taxed more heavily than imports from countries with an extensive market, and in dutiable value differing considerably from the actual value based on export price (invoice price).

Netherlands
(continued)

Surinam

Question 1.

Surinam has no administrative or legal provisions which permit valuation for customs purposes to be based on arbitrary or fictitious values, in the sense that such values are not related to the value of the imported merchandise in question or of like merchandise.

Question 2.

In Surinam there do not exist any administrative or legal provisions which permit valuation for customs purposes to be based on the values of comparable domestic products.

Question 3.

According to Article 4 of the Customs Ordinance, for goods to be imported in Surinam the value shall be the "current price" in Surinam at the time of declaration. This "current price" is the price which could be stipulated on the day of declaration, by the first seller abroad for delivery in Surinam, excluding duties levied in Surinam. With regard to separate parts of a whole entity which do not constitute independent commercial articles, the value is established having regard to the price of the whole entity of which they are deemed to be part.

Question 4.

In general the time which is accepted for valuation purposes as the time of sale, is the day of making the invoice. In the case of alteration of the purchase or further stipulation of the purchase price, the day upon which such occurred lastly is regarded as the purchase day (see also answer to Question 8).

Question 5.

The place accepted for valuation purposes as the place of sale is the place where the first seller abroad normally offers the goods for sale.

Question 6.

Valuations are based on the landed price in Surinam.

Question 7.

If the price of the goods depends upon the quantity purchased, the price used for valuation is uniformly that which relates to the normal quantities by which the merchandise is traded between the countries of exportation and Surinam.

Netherlands - Surinam

(continued)

Question 8.

If so desired by the importer, the dutiable value of the goods delivered as the result of a normal transaction can be regarded to be the purchase price plus all charges incurred up to Surinam: charges in Surinam not being included. In case taxes levied in Surinam are included in the price, these are deducted. The dutiable value cannot be based on the purchase price if this price is obtained more than half a year before the declaration, unless an earlier delivery and declaration of the goods were reasonably not possible. Where invoice value is not so accepted as a basis, the value is uniformly assessed in conformity with the value (landed price in Surinam) of entirely similar goods.

Question 9.

No provisions for the use of alternative methods of valuation exist in Surinam.

Question 10.

From the value of imported goods is excluded the amount of any internal tax from which the imported product has been exempted in the exporting country.

Question 11.

For the conversion of foreign currencies for valuation purposes, the official rate of exchange based on the par value recognized by the International Monetary Fund is applied. If the product is coming from a country applying multiple rates of exchange, always the official rate of exchange of that country is applied as a basis for valuation.

Question 12.

Only the statistic retribution is assessed on the value of imported goods. For the levy thereof the same method of valuation is applied as for levy of customs duties.

Question 13.

The export trade of Surinam has not met with serious difficulties resulting from methods or practices adopted by other contracting parties for determining the value of imported goods.

Netherlands
(continued)

Netherlands Antilles

Question 1.

In the Netherlands Antilles there do not exist any administrative or legal provisions which permit valuation for customs purposes to be based on arbitrary or fictitious values, in the sense that such values are not related to the value of the imported merchandise in question or of like merchandise.

Question 2.

The Netherlands Antilles have no administrative or legal provisions which permit valuation for customs purposes to be based on the values of comparable domestic products.

Question 3.

According to Article 59 of the Customs Ordinance the value of the goods to be imported in the Netherlands Antilles is the price which could be stipulated on the day of declaration by the first seller abroad for delivery at the place of importation of the goods, excluding duties levied pursuant to the above-mentioned ordinance and the costs of gross packing, transport, insurance and commission. With regard to independent commercial articles, the value is established by taking into consideration the price of the whole entity of which they are deemed to be a part.

Question 4.

The latest date, whereupon entirely similar goods can be obtained for delivery on the day of importation, is accepted as the time of sale, for valuation purposes.

Question 5.

The place accepted for valuation purposes as the place of sale is the place where the first seller abroad normally offers the goods for sale.

Question 6.

Valuations are based on the internal price of the goods in the market of the exporting country.

Question 7.

If the price of the goods depends upon the quantity purchased, the price used for valuation is uniformly that which relates to the normal quantities by which the merchandise is traded between the countries of exportation and the Netherlands Antilles.

Netherlands - Netherlands Antilles

(continued)

Question 8.

In general the invoice value is accepted as the basis for valuation. Where invoice value is not so accepted as a basis, the value is uniformly assessed in conformity with the value (cost of production) of entirely similar goods.

Question 9.

No provisions for the use of alternative methods of valuation exist in the Netherlands Antilles.

Question 10.

From the value of imported goods is excluded the amount of any internal tax from which the imported product has been exempted in the exporting country.

Question 11.

For the conversion of foreign currencies for valuation purposes is applied the official rate of exchange based on the par value recognized by the International Monetary Fund. If the product is coming from a country applying multiple rates of exchange, the official rate of exchange of that country is applied as a basis for valuation.

Question 12.

No charges on imports, other than ordinary customs duties, are assessed on the value of imported goods.

Question 13.

The export trade of the Netherlands Antilles has not met with serious difficulties resulting from methods or practices adopted by other contracting parties for determining the value of imported goods.

New Guinea

Question 1.

By virtue of Article 19 of the Customs Ordinance the Director of Finance may establish, for the purpose of calculating import duties during a period determined by the Director, a price-list concerning goods which are suitable for valuation to measure, weight and the standard of sale according to normal trade practices, based upon the average price of a preceding period. So far such a price-list has not been issued after World War II, and is not contemplated for the near future.

Question 8.

The invoice value is accepted as the basis for valuation if this is the value represented by the goods in bond on the day the merchandise enters the trade in New Guinea; this is the day on which the import duties are due for payment. The price mentioned in the invoice can only be regarded as a basis for calculating the value in bond, if the invoice refers to a normal purchasing transaction (the agreed price must be the result of a real action of offering and bidding in the free market) and if the price is one for which the goods involved can lastly be obtained in the country of origin and landed in New Guinea. If any change in the market price has taken place after the vessel's departure from the country of origin and the ship has made a normal voyage, then such a change is not taken into account.

Where the invoice value is not accepted as a basis for valuation (because, for example, the transaction does not take place under fully competitive conditions or the ship has not had a normal voyage in connection with an undue delay in an intermediate port for reasons whatsoever) and the actual value on the given day is unknown, the customs will accept as the dutiable value the price for which entirely similar goods can be obtained, for delivery free of charge in the customs bonds on that day, from the first hand abroad on a normal basis of buying and selling at the latest date prior to the day of importation. If also this price is unknown, the value is calculated from the sale price of the imported product in the market of New Guinea, adjusted in such a way that expenses and profits incurred after importation are taken into account.

Question 9.

No provisions for the use of alternative methods of valuation exist in New Guinea.

Question 10.

From the value of imported goods is excluded the amount of any internal tax from which the imported product has been exempted in the exporting country.

Question 11.

For the conversion of foreign currencies for valuation purposes the official rate of exchange based on the par value recognized by the International Monetary Fund is applied. If the product is coming from a country applying multiple rates of exchange, the official rate of exchange of that country is applied as a basis for valuation.

Question 12.

Only the statistic retribution is assessed on the value of imported goods. For the levy of this retribution the same method of valuation is applied as for levy customs duties. Pursuant to Article 10 of the statistic Ordinance the Director of Finance may establish, for the purpose of calculation of the statistic retribution, from time to time a price-list concerning goods not subject to customs duties ad valorem. Such a price-list has not been issued after World War II.

Question 2.

New Guinea has no administrative or legal provisions which permit valuation for customs purposes to be based on the values of comparable domestic products.

Question 3.

According to Article 31 of Regulation A, attached to the Customs Ordinance, jo. Article 6 of the Ordinance, for goods to be imported in Hollandia, Biak and Sorong has to be declared:

- (a) for goods mentioned in the price-list (see answer to Question 1) the value according to the current price-list;
- (b) for goods not mentioned in the price list the "value in entrepôt".

Pursuant to Article 8 of Regulation B, attached to the Customs Ordinance, jo. Article 6 of the Ordinance, for goods to be imported elsewhere in New Guinea the "value" (in practice also the "value in entrepôt") is established by the customs officers. If the goods are mentioned in the price-list issued by the Director of Finance, the price-list is used as a rule of conduct for the valuation. In accordance with internal instructions the "value in entrepôt" is the price lastly quoted by the first seller abroad, as a result of a normal purchasing transaction, delivered free of charge in the customs bonds in New Guinea. In normal circumstances the "value in entrepôt" will therefore be the amount which is to be paid by the wholesale trade up to the moment of storing in customs bonds, i.e., the wholesale price at first hand in the country of origin, to which has been added the costs of packing, transport and insurance until stored in customs bonds.

Question 4.

See answer to Question 8 with regard to the time which is accepted as the time of sale, for valuation purposes.

Question 5.

The place accepted as the place of sale, for valuation purposes, should be the place where the first seller abroad normally offers the goods for sale.

Question 6.

In general valuations are based on the landed price of the goods in New Guinea.

Question 7.

If the price of the goods depends upon the quantity purchased, the price used for valuation is uniformly that, which relates to the normal quantities by which the merchandise is traded between the countries of exportation and New Guinea.

Question 13.

The export trade of New Guinea has not met with serious difficulties resulting from methods or practices adopted by other contracting parties for determining the value of imported goods.

PAKISTANQuestion 1.

The Government of Pakistan have the power to fix Tariff Values for purposes of levying duty. Tariff values are based on the average wholesale price of commodities in question in Pakistan, during the preceding twelve months, less the duty. Tariff values are, however, only fixed in respect of those goods whose prices vary within a small range and are more or less in a definite regime.

Question 2.

No such administrative or legal provision exists.

Question 3.

Pakistan has a definition of value which seeks to charge duty on the basis of value of goods of the like kind and quality, imported under fully competitive conditions at the time and place of import. The definition of value is contained in section 30 of the Sea Customs Act (extract enclosed).

Questions 4 & 5.

The definition of value does not specify the time offer or place of sale; it contemplates the normal execution of an order placed under normal conditions by the Pakistani importer with the foreign suppliers, and bases value on the value at the time of importation and the place of importation.

Question 6.

(a) and (b) - No.

(c) The Pakistan valuation is based on the wholesale market price in the importing country less trade discount and duty or on the normal landed price of the goods in the importing country where there is no wholesale market.

Question 7.

The price charged in normal transactions for wholesale quantities is the quantity basis used.

Question 8.

The invoice value is accepted when it represents the value of goods imported under fully competitive conditions between an importer and exporter independent of each other; the sale of the goods being the only consideration. In certain cases of exceptional transactions the invoice price subject to necessary correction is accepted.

Question 9.

The Pakistan definition of value provides for assessment on the basis of the wholesale market value less trade discount and import duty for only those goods the market value of which in wholesale lots is readily ascertainable. Such goods form a very small or negligible percentage of total imports of Pakistan.

Question 10.

Yes; exclusion is not limited to any specified taxes.

Question 11.

The definition of value contemplates value of imported goods at the time and place of importation. Normally the exchange rate applied is the one ruling on the date previous to the day on which entry of the goods is made. Stipulated exchange rates, forming part of the contract are also accepted subject to necessary safeguards.

Question 12.

Sales tax is levied on import of certain goods. The value for purposes of sales tax is the value for Customs plus the Customs duty.

Question 13.

No comments.

Extract of Section 30 of the Sea Customs Act

30. For the purposes of this Act the real value shall be deemed to be:-

- (a) The wholesale cash price, less trade discount, for which goods of the like kind and quality are sold, or are capable of being sold, at the time and place of importation or exportation, as the case may be, without any abatement or deduction whatever, except (in the case of goods imported) of the amount of the duties payable on the importation thereof: or
- (b) where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place, without any abatement or deduction except as aforesaid,

S W E D E NQuestion 1.

There are no administrative or legal provisions in existence which permit that the assessment of the customs value of goods be based on arbitrary or fictive values.

Question 2.

There are no administrative or legal provisions in existence which permit that the assessment of the customs value of goods be based on the value of comparable goods of domestic origin.

Question 3.

As will appear from the appended translation of § 4 of the Swedish Customs Ordinance of 4 October 1929 (No. 316) assessments are based on a definition of the customs value which aims at establishing the real value of the imported goods.

Question 4.

The assessment of the customs value is usually based on the value of imported goods at the time of purchase, and in the case of goods which are not purchased, on the value at the time of shipment to Sweden.

Question 5.

The assessment of the customs value is usually based on the value of imported goods at the place where they are purchased, and in the case of goods which are not purchased, on the value at the place of shipment.

Question 6.

The assessment of the customs value is based on the export price in the country of origin. The customs value also includes the cost of transporting the goods to Sweden, and thus corresponds to the c.i.f. value of the goods.

Question 7.

Wherever the price is contingent upon the quantity sold the assessment of the customs value is always based on the price applied to quantities corresponding to the actual quantity to be assessed.

Question 8.

The price at which goods are sold or offered for sale is as a rule accepted as a basis of assessment. Invoice values are thus usually acceptable.

Sweden
(continued)

The fur tax is imposed on dressed furs and manufactures of fur. The taxable value is computed as the customs value plus the customs duty.

The commodity tax is imposed on chocolates, confectionery, cosmetics, and on essences and extracts intended for the preparation of alcoholic beverages. The tax is not imposed on the customs value but at the sales price to wholesale dealers.

The sales tax, assessed on the value of the goods, is imposed on manufactures of gold, silver or platinum, precious stones, real pearls, coral and on gramophones. The taxable value is not the customs value but the sales price to the consumer.

ANNEX

§ 4 of the Customs Ordinance of 4 October 1929 (No. 316)

When the customs duty is assessed ad valorem, the value of the goods in undamaged condition equals the market price of the goods at the place of purchase at the time of the sale, or, for goods which are not purchased, the price of such goods at the place and time of shipment, including packing, freight, insurance and other charges on the goods up to the arrival of the goods at the place of destination if shipped by sea or air, or, if the goods are unloaded from the sea or air transport for reshipment to the place of destination, or enters the country in any other way upon arrival at a border place within the customs collection area. It is the duty of the holder of the goods to state and if possible certify the sums which together are deemed to constitute the value of the undamaged goods.

If the holder of the goods omits to comply with the above provisions, or if there is cause to believe that the stated value is inferior to the real value, the value may be assessed as equal to the current market price at the place where the customs assessment is performed at the time of such assessment, after deduction of the customs duty, legitimate sales' costs and normal profit.

If in cases envisaged in the second passage it should prove impossible to assess the value of goods as provided in the same passage, or if the goods in question have suffered substantial damage, the assessed value shall be the value of the goods at the place and time of assessing such value. In order to arrive at such value the customs officer is entitled to have the goods examined and evaluated.

Further regulations respecting the certification of the value of undamaged goods and the examination and evaluation of goods will be regulated by the King in Council, likewise empowered to decide by which rules the value of packing shall be assessed in cases where the packing consists of a container, wholly or in part.

To the extent this is required in order to check statements relating to the value of goods, the holder of the goods or such other person on whose account the goods are imported, is obliged to place his business documents at disposal.

Sweden
(continued)

If the seller of goods omits to comply with the requirement to state the amounts which together should be held to constitute the value of the goods in undamaged condition, or if there be cause to believe that the value so stated is inferior to the real value, the assessment may be based on the actual Swedish market price of such goods in the place where the assessment of the customs value is performed and at the time such assessment is performed, after deduction for the customs fee, as well as for legitimate sales' costs and normal profit.

If it should prove impossible to assess the value of goods as described above, or if goods have suffered substantial damage, the value shall be assessed at the actual value of the goods in the place where the assessment is performed and at the time such assessment is performed. In order to establish such value the customs office is entitled to have the goods examined and evaluated.

Question 9.

As indicated in the answer to the preceding question, the price at which goods are sold or offered for sale constitutes, in principle, the basis of evaluation. It is thus only under certain circumstances, as specified in the answer that the value is assessed differently. Since this only occurs in such cases where it has not been possible to indicate the price of the goods, or the price so indicated has not been acceptable, the customs official is never faced with a choice between several values.

Question 10.

No charges of any kind applied in the country of exportation, waived or restituted, are included in the customs value.

Question 11.

When data relating to value or charges appearing in documents purporting to certify the customs value of goods is stated in a foreign currency, the rate of exchange to be applied in computing such value or charges in Swedish currency shall be the selling rate indicated in the latest official quotations for foreign exchange available to the customs office at the time of the assessment of the customs value of goods, or, in the case of sums paid prior to the assessment of the customs value, the selling rate appearing in the official quotations for foreign exchange at the time or times that payment occurred. The official quotations for foreign exchange are fixed by the Sveriges Riksbank.

Question 12.

The following taxes on imported goods, equally applied to comparable goods of domestic origin, are assessed ad valorem: the fur tax, the commodity tax and the sales tax.

