

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.9/61

2 December 1954

Special Distribution

CONTRACTING PARTIES
Ninth Session

Original: French

Review Working Party II on Tariffs,
Schedules and Customs Administration

ARTICLE VII - VALUATION FOR CUSTOMS PURPOSES

Proposals by the Italian Government

Having regard to the fact that Italy has signed the Brussels Convention on the Valuation of Goods for Customs Purposes and applies the "Definition" which is the object of that Convention, and to the fact that the concordance of the Brussels Definition with the principles proclaimed in Article VII of the General Agreement has been proved, the Italian Government would, as a rule, be tempted to propose that the Review should be inspired by the Brussels Definition and the interpretative notes thereto.

Convinced, however, that the General Agreement must also meet the needs of other countries interested in trade movements stretching across wider areas than Europe alone, the Italian Government, in making its proposals, has been actuated by the following motives:

- (a) To refrain from changing the structure of Article VII, because a number of countries, including mainly extra-European States, have taken up a position based on the various paragraphs of that Article, and on the principles and concepts embodied in the Article itself;
- (b) To reinforce the obligation of the contracting parties in the sense of widening it to include, apart from the recognition of the validity of the general principles embodied in the paragraphs of the Article and the application of these principles, a definite undertaking to bring their laws and regulations into line with that Article in the light of the suggestions made in the interpretative notes thereto.
- (c) To strengthen the principles proclaimed in the Article by a rational improvement of the concepts which it reflects by basing them more closely on trade practices and realities;

- (d) To exclude any possible alternatives allowed by the present wording of certain paragraphs, as well as any alternative system of valuation likely to lead to higher dutiable values;
- (e) To obviate any dubious interpretations allowed by the present wording of certain provisions.

These intentions are given expression in the attached draft proposals in which the proposed new texts are underlined. These texts being clear and lucid, require no comments.

Proposed Improvements and New Provisions
to Article VII and Its Interpretative Notes (Annex I)

ARTICLE VII

Valuation for Customs Purposes

1. The contracting parties recognize the validity of the general principles of valuation set forth in the following paragraphs of this Article, and they undertake to adapt their respective national laws to such principles and to apply them in the light of the interpretative notes to this Article as set out in Annex I, in respect of all products subject to ad valorem duties or other charges or restrictions on importation and exportation based upon or regulated in any manner by value, at the earliest practicable date. Moreover, they shall upon a request by another contracting party review the operation of any of their laws or regulations relating to value for customs purposes in the light of these principles. The CONTRACTING PARTIES may request from contracting parties reports on steps taken by them in pursuance of the provisions of this Article.
2. (a) The value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.

The value for customs purposes should be determined by a uniform system which would preclude resort to various alternative methods of valuation permitting the adoption of a method likely to lead to higher dutiable values.

(b) "Actual Value" should be the price at which, at a time and place determined by the legislation of the country of importation, such or like merchandise is sold or offered for sale in the ordinary course of trade under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to quantities comparable to the quantities submitted to the customs authority for valuation purposes.

(c) When the actual value is not ascertainable in accordance with sub-paragraph (b) of this paragraph, the value for customs purposes should be based on the nearest ascertainable equivalent of such value.

3. The value for customs purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export, from which the imported product has normally been exempted or has been or will be relieved by means of a normal refund.

4. Where it is necessary for the purposes of paragraph 2 of this Article for a contracting party to convert into its own currency a price expressed in the currency of another country, the conversion rate of exchange to be used shall be the official rate current at the date of clearance of the imported merchandise.

The official rate of exchange shall be based on the par values of the currencies involved as established pursuant to the Articles of Agreement of the International Monetary Fund or by special exchange agreements entered into pursuant to Article XV of this Agreement or to current market rates of the currency in question.

(It remains to be seen whether, in view of present developments, sub-paragraphs (c) and (d) of this paragraph will be retained.)

5. The system and methods for determining the value of products subject to ad valorem duties or other charges or restrictions based upon or regulated in any manner by value should not constitute an obstacle to the rapid clearance of imported merchandise should protect honest importers from unfair competition in the field concerned, should as far as possible be based on trade documents and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the value for customs purposes.

Interpretative Notes - Annex I

Ad Article VII

Paragraph 1 - The present text should be replaced in accordance with the secretariat's proposals. The new interpretative note should read as follows:

Paragraph 1. It is recommended that the determination of valuation for customs purposes should be extended to all merchandise subject to customs declaration, including duty-free merchandise and merchandise liable to specific duties.

The expression "or other charges" should be interpreted to exclude internal taxes or equivalent charges imposed on imports or because of importation.

Paragraph 2 - It would be in conformity with Article VII to presume that "actual value" may be represented by the invoice price, plus any non-included charges for legitimate costs which are proper elements of "actual value" and plus any abnormal discount or other reduction from the ordinary competitive price.

It would be in conformity with Article VII, paragraph 2(b) for a contracting party to construe the phrase "in the ordinary course of trade under fully competitive conditions" as excluding any transaction wherein the buyer and seller are not independent of each other and price is not the sole consideration.

The prescribed standard of "fully competitive conditions" permits contracting parties to exclude from consideration special prices to sole concessionaries, exclusive agents, distributors, etc. which generally involve special discount on normal competitive prices.

The wording of sub-paragraphs (a) and (b) permits contracting parties to determine valuation for customs purposes uniformly either (1) on the basis of a particular exporter's prices of the imported merchandise, or (2) on the basis of the general price level of like merchandise.

Paragraph 3 - The term "internal tax" should be taken to include taxes directly applicable to the imported merchandise itself and to exclude all fiscal or social charges borne by the producer or trader. The expressions "has normally been exempted" and "a normal refund" preclude any form of exemption or refund not usually granted in connection with the export of the merchandise in question.