

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/228/Add.1

22 November 1954

Limited Distribution

VALUATION FOR CUSTOMS PURPOSES

Questionnaire for the Ninth Session

Addendum

Statements received from Governments

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A U S T R A L I A

Question 1

No. But where the general basis for valuation as set out in answer to Question 3 cannot be applied Section 160 of the Customs Act has application to such transactions as come within its scope. Section 160 reads:

"Whenever it is difficult to determine the value of goods for duty, either because the goods are not sold for use or consumption in the country of production or because a lease of the goods or the right of using the same is sold or given but not the right of property therein, or because the goods have a royalty imposed thereon and the royalty is uncertain or is not a reliable means of estimating the value of the goods, or because the goods are usually or exclusively sold by or to agents or by subscription or are sold or imported in or under any other unusual or peculiar manner or conditions (of all which matters the Minister shall be judge) the Minister may determine the value for duty of the goods."

Whilst this Section gives the Minister power to determine the value for duty in appropriate transactions such determinations are not made on a purely arbitrary or fictitious basis but, bearing in mind the conditions applicable to each transaction, aim at assessing as closely as is possible a true value for the goods.

Question 2. No

Question 3

Yes. Section 154 of the Customs Act provides the following basis for arriving at the value for duty:

"when any duty is imposed according to value, the value for duty shall be the sum of the following:

- (a) (i) the actual money price paid or to be paid for the goods by the Australian importer plus any special deduction, or
- (ii) the current domestic value of the goods, whichever is the higher, and
- (b) all charges payable or ordinarily payable for placing the goods free on board at the port of export".

"Current domestic value" in the section quoted above is defined as "the amount for which the seller of the goods to the purchaser in Australia is selling or would be prepared to sell for cash, at the date of exportation of those goods, the same quantity of identically similar goods to any and every purchaser in the country of export for consumption in that country."

Question 4.

For domestic value purposes (as referred to in answer to Question 3) the date of exportation from the country of export is taken and not the time of sale or offer of sale. The alternative provided for in the definition of value for duty stipulates the "actual money price paid" i.e., at the date of sale.

Question 5.

At the port of export in the country of export.

Question 6.

See definition of value for duty in answer to Question 3. Therefore the specific answers to Question 6 are as follows:

- (a) the internal (domestic) price in the exporting country always forms one of the alternatives provided for in the definition of value for duty (answer to Question 3);
- (b) the "export price" is not specifically used but might be synonymous with the "actual money price paid or to be paid" and thus form the other alternative in the definition of value for duty;
- (c) the landed price in Australia is not used.

Question 7.

Yes. (See definition of "current domestic value" appearing in answer to Question 3). However, when under the basis for value for duty the "actual money price paid" is the higher such is adopted for duty purposes without regard to quantity. It is assumed that the "money price paid" takes into consideration the actual quantity sold to Australia.

Question 8.

In the absence of any reason for doubt the invoice values i.e., the current domestic value in the country of export, and the selling price to purchaser (in Australia) are accepted subject to any verification considered necessary of the actual money price remitted or to be remitted in payment. Where doubt exists of the correctness of the declared current domestic value cash securities are required pending production of evidence of the correct domestic value.

Question 9.

The basis of value for duty (answer to Question 3) provides for the use of the higher alternative. There are, however, no alternative bases for valuation.

Question 10.

Yes. Such exclusion is not limited to any specific taxes but covers all internal taxes which are directly related to the goods, provided the Customs in Australia are satisfied that the goods for export from the country concerned are exempt from payment of such tax, or, if payment of the tax has been made, such will be refunded on the exportation of the goods.

Question 11.

Section 157 of Customs Act reads:

- 157 - (1) Where any amount which is, under any other provision of this Act, required to be taken into account for the purpose of ascertaining the value for duty of any goods is not an amount in Australian currency, the amount to be so taken into account shall be the equivalent in Australian currency of that amount, ascertained according to a fair rate of exchange at the date of exportation of the goods.
- (2) For the purposes of this section, the Minister may, where he considers it desirable, so to do for the avoidance of doubt, specify, by notice published in the Gazette, a rate which is to be deemed to be, or to have been, a fair rate of exchange in relation to any currency:
 - (a) on a date, or during a period, preceding the rate of publication of the notice, or
 - (b) from the date of publication of the notice, or an earlier date specified in the notice, until the revocation of the notice.
- (3) The rate of exchange specified in relation to any currency in pursuance of the last preceding sub-section shall, in relation to the value for duty of any goods exported on the rate or during the period to which the rate so specified applies, be the rate of exchange which shall be applied for the purpose of sub-section (1) of this section in respect of the currency specified in the notice.
- (4) In any case in which the rate of exchange to be applied is not ascertained by virtue of the last preceding sub-section, and in which doubt exists as to that rate, the Minister may specify a fair rate of exchange to be applied for the purpose of the particular case.

Where it is necessary to convert into Australian currency a price expressed in the currency of another country, Section 157 of the Australian Customs Act requires that the conversion be made "according to a fair rate of exchange at the date of exportation of the goods". Where the par value of the currency involved is established pursuant to the Articles of Agreement of the International Monetary Fund the conversion made is based on the par value so established.

In practice the rates of exchange used for the conversion into Australian currency of values not shown on invoices in Australian currency are the bank quotations for the particular currency on the date of exportation of the particular goods. This is the general practice and applies although a "par value" may not have been established.

In the case of imports from a country which maintains multiple rates of exchange, the Australian practice is to employ a single conversion rate with respect to all commodities imported from that country and not a series of rates varying with the commodities involved. Although the rate so employed is based on a determination by the customs administration, the law requires specification of a "fair rate of exchange" and thereby protects traders from the use of arbitrarily determined conversion rates.

Since multiple currency practices vary so much with respect to their detailed application and their motives, Australia foresees many difficulties in formulating precise or definitive rules to govern the conversion of the currency of countries which use multiple rates of exchange.

Question 12.

There are no charges on imports, other than ordinary customs duties (i.e., Import and Primage duties), which are assessed on the value of imported goods. Sales Tax (an Internal Tax) when levied on goods at time of importation is assessed on a sum in Australian currency which exceeds by 20 per cent the equivalent of the value for duty of the goods (as arrived at for duty purposes) and the amount of Customs duties payable.

Question 13.

No serious difficulty.

B U R M A

Question 1.

We have no legal provisions which permit valuation for customs purposes to be based on arbitrary or fictitious values, but under administrative instructions valuation by appraisement is authorised in the case of imported goods which are not covered by any documents such as invoice, indent, or letter of credit. In such cases the appraised value is obtained by deducing it from the value of the nearest article available or from such data as would form the basis for such valuation. The class of importations to which this method of valuation is applied would be samples of no commercial value, and articles of art or antiquity. The application of this method of valuation, however, is confined in actual practice to very few instances.

Question 2.

Legal provisions exist permitting valuation for customs purposes to be based on the values of comparable domestic products. These provisions will be found in Section 30 of the Sea Customs Act, a copy of which is being furnished in answer to Question 3. Section 30(a) ibid. refers to the wholesale cash price prevailing at the time of importation and from the exception made for the case of goods imported, it would appear that the wholesale cash price may relate to goods which are domestically produced. However, there has been a single instance in which valuation has been based on the price of domestic products.

Question 3.

Apart from the cases mentioned in (1) and (2), valuation is based on the definition of value which seeks to establish as a standard the actual value of the imported merchandise. Provision is made for establishing this standard in Section 30(b) of the Sea Customs Act. (Copy of Section 30 of the Sea Customs Act is enclosed for reference).

Question 4.

The time of import and not the time of sale is accepted by our legislation for valuation purposes.

Question 5.

The place of import and not the place of sale is the place accepted by our legislation for valuation purposes, and that place is the sea customs port at which the merchandise is imported.

Question 6.

The valuations are based on (c) the landed price in the importing country in cases in which the internal wholesale cash price, at which goods of the like and quality are sold, or are capable of being sold, at the time and place of importation, with certain deductions, is not ascertainable.

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.

Question 8.

The invoice value is accepted as a basis for valuation as an alternative only when the basis given in (a), i.e. the sale price of the imported product on the importing market adjusted to take account of expenses and profits incurred after importation is not available.

Question 9.

Legal regulations as contained in Section 30 of the Sea Customs Act, quoted in Question 3 provide for the use of alternative methods of valuation. The Customs Officer or Appraiser is bound to use the method given in Section 30(a) in the first instance, and only when real value, as defined in Section 30(a) is not readily ascertainable, is he allowed to adopt the alternative given in Section 30(b) ibid.

Question 10.

Internal taxes incurred in the exporting country without any limitation are excluded from the value of imported goods, in assessing them to customs duties.

Question 11.

We apply the official rate of exchange based on the par value recognised by the International Monetary Fund.

Question 12.

Sales Tax imposed under the Burma Sales Tax Act of 1952 is assessed on the value of imported goods after their assessment to customs duties. The method of valuation for the levy of Sales Tax is the same as for the levy of customs duties.

Question 13.

Our export trade has not, so far, met with serious difficulties resulting from methods or practices adopted by other contracting parties for determining the value of imported products.

ENCLOSURE TO QUESTION 3:

Section 30 reads as follows:

"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 Sales Tax and 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."

C A N A D A

Question 1.

Imports from countries which are contracting parties to the General Agreement and from other countries enjoying most-favoured-nation treatment are subject to valuation for customs purposes on the basis of the actual home market price of the imported merchandise in accordance with Article VII (see answer No. 3 below). In circumstances in which the obligations of GATT are not applicable, the imported goods may, in exceptional circumstances, be valued under section 38 of the Customs Act. This provides that where goods are being imported into Canada under such conditions as prejudicially or injuriously affect the interests of Canadian producers, the Governor-in-Council may authorize the Minister to fix the value for duty.

Question 2. No.

Question 3.

Section 35 (1) of the Customs Act provides for valuation for duty purposes of all imported goods at the fair market value of such or the like goods when sold for home consumption in the ordinary course of trade under fully competitive conditions, in like quantities and under comparable conditions of sale at the time when and place whence such goods were exported by the vendor to the purchaser in Canada; or the price at which the goods were sold by the vendor abroad to the purchaser in Canada, whichever may be greater. It will be observed the selling price is that for the goods exclusive of all charges thereon after their shipment from the place whence exported direct to Canada.

The importer is given the benefit for duty purposes of any decline in the home market value between the date of purchase and the date of shipment.

Sub-section (2) of section 35 provides that when the fair market value of any goods is not ascertainable under sub-section (1), the value for duty shall be the nearest ascertainable equivalent of such value.

Sub-section (3) of section 35 provides that when neither the fair market value nor the equivalent of such value can be ascertained, the value for duty shall be the actual cost of production of similar goods at date of shipment to Canada, plus a reasonable addition for administration, selling cost and profit.

Where the market price of any manufactured goods in the country of export has, as a result of the advance of the season or the marketing period, declined to levels that do not reflect their normal price, the value for duty may, under section 35 (6), be taken to be the average price, weighted as to quantity, at which the like or similar goods were sold for home consumption in the country of export during a reasonable period, not exceeding six months, immediately preceding the date of shipment of the goods to Canada.

Question 4.

Value for duty is the value prevailing on date of shipment direct to Canada.

Question 5.

Value for duty is the value at the place from which shipment is made direct to Canada.

Question 6 (a)

Value for duty is wherever possible the fair market value when sold for home consumption in the country of export.

(b) Not applicable.

(b) Not applicable.

Question 7. Yes.

Question 8.

In practically every case fair market value is the same as the invoice value and this is taken as the value for duty. In the exceptional case where the invoice value is higher, the latter, in conformity with Article VII of GATT, is applied.

Question 9.

Customs collectors and appraisers are obliged to make use of valuation procedures in accordance with rules prescribed by law. See answer No. 3 above.

Question 10 (a) Yes

(b) The exclusion is limited to taxes which are imposed directly on goods.

Question 11.

Canada accepts the actual exchange rates relating to commercial transactions on the date of shipment.

In the case of imports from a country applying multiple rates of exchange the rate of conversion to Canadian currency for customs purposes is the rate at which the seller in the country of export is compensated in national currency (for the foreign exchange surrendered) in respect of the particular product exported to Canada.

Question 12. (a)

Sales tax and excise taxes which apply to domestic goods are also levied on like imported goods.

- (b) Yes.
- (c) In all cases.
- (d) Not applicable.
- (e) Not applicable.

Question 13.

Yes. Accordingly the Canadian Government attaches great importance to contracting parties revising their customs laws and procedures to conform fully with the General Agreement.

C E Y L O N

Question 1. No.

Question 2. No.

Question 3.

Certain goods like certain varieties of textiles are taxed on the "true wholesale market value" under section 54 of the Customs Ordinance. Section 159 of the Customs Ordinance defines "true wholesale market value" as "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 without any abatement or deduction whatever except of the amount of the duties payable on the importation thereof or 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 of the duties as aforesaid ... "

Question 4.

No specific provision exists in our legislation regarding the time of sale or offer for sale for valuation purpose. For the purposes of ascertaining the true wholesale market value as indicated above, the time of importation is taken as the time at which "goods of like kind and quality are sold or capable of being sold."

Question 5. See 4 above.

Question 6.

Valuation is based on the c.i.f. price at the place of importation on arrival of the goods provided such price is acceptable in terms of the definition of true wholesale market value cited above and no wholesale transaction exists in the local market in respect of such goods.

Question 7.

There is no specific legal provision for assessment of the value based on quantity imported but for purposes of establishing the wholesale market value the quantity basis on which wholesale transaction takes place in bulk is not uniform in all commodities.

Question 8. See 6 above.

Question 9.

No legal or administrative provisions for the use of alternative methods of valuation prevail here.

Question 10.

No - provided it does not affect the true c.i.f. value.

Question 11.

Rates of exchange for all foreign currencies are fixed periodically by the Minister of Finance under the provisions of section 19 of the Customs Ordinance based on the current selling rates at the Central Bank of Ceylon.

The importer should indicate in his Bill of Entry the invoice value in the currency in which the goods are invoiced and should also show the corresponding value in Ceylon currency based on the rates prescribed by the Minister.

Question 12.

No other Customs charges are based on the value of imported goods.

Question 13.

Not aware of any.

D E N M A R K

Question 1 and 2.

"There are no such administration or legal rules in Denmark.

Question 3.

Under the Danish Customs Law of 29 March, 1924, the value of goods for the purpose of assessing Customs duty is, as a general rule, the wholesale export price at the time when, and at the foreign place where, they are purchased, plus the cost of packing, forwarding, etc. If the goods are not ultimately sold in Denmark, the value for Customs purposes is the wholesale export price at the place and time of dispatch, plus the cost of forwarding, etc. In the dutiable value are included agent's commission, cash discount, and such discounts as are granted only for a particular sale or for sales to a particular purchaser.

In cases where the Customs authorities cannot establish the value on which duty is to be paid under the above provisions (e.g. where goods are imported for branches, subsidiary companies, etc), duty must be paid on the current price of the goods when sold from importer to wholesale dealer in this country at the time of clearance, including packing, but excluding Customs duty. If this value cannot be established the duty is assessed in a similar way on the basis of the current price of the goods when sold in this country from importer to retailer or from importer to consumer, less a deduction fixed by the Customs authorities for normal trade margin from wholesale dealer to retailer or consumer, respectively.

In clearing goods subject to ad valorem duty the importer shall present to the Customs a duplicate of the invoice for the declared goods, received by him from the seller. This duplicate invoice must be signed by the seller and contain a description of the consignment showing the date of the purchase, terms of payment, and other terms of sale. This duplicate invoice shall also contain a declaration signed by the clearer to the effect that he is responsible for the correctness of the invoice and that on the invoice price no allowance has been made for cash payment, nor any other special allowance not expressly shown in the invoice. In case any such allowance has been made and does not appear on the face of the invoice, the duplicate invoice must contain an explanation on the subject.

Question 4.

As a rule the dutiable value is assessed on the basis of the price which was being quoted at the time of purchase in a foreign country. If the goods are not ultimately sold in Denmark, however, the dutiable value is the price at the time when the goods were dispatched for this country.

In the cases where the value is fixed on the basis of the importer's re-sale price, the prices obtaining on the day of clearing are used (cf. question 3).

Question 5.

In the dutiable value are included all expenses for forwarding incurred up to the time of arrival at the place where the goods are to be cleared. Expenses incurred and charged separately after the goods are unloaded at the first Danish port (or frontier station) are not included in the value.

Question 6.

As a general rule the value is established on the basis of the export price of the goods at the exporting country. If the value cannot be established according to this rule (e.g. in the case of goods imported for branch houses, subsidiary companies, etc.) the value may be fixed on the basis of the re-sale price in this country (cf. question 3).

Question 7.

Quantity discounts which the foreign seller grants to all Danish importers are not included in the dutiable value.

Question 8.

Where goods are bought and sold in the free market between mutually independent buyers and sellers, the dutiable value is established on the basis of the price paid (invoice price). If agent's commission, cash discounts or other special discounts which are to be included in the dutiable value have been deducted from the invoice price, corrections of the invoice price are made accordingly.

Where the Customs authorities cannot fix the value on the basis of the invoice price subject to corrections, if any, for special discounts, e.g. in the case of goods imported for branch houses, subsidiary companies, etc., the value is fixed on the basis of the price at which the importer sells the goods, less duty, etc.

In no cases the value is fixed on the basis of the cost of production of the imported product.

Question 9.

The various methods of valuation are used in accordance with rules laid down by the central Customs authority.

Question 10.

Internal taxes from which the imported product has been exempted in the exporting country are not included in the dutiable value. This rule applies to internal taxes of any kind.

Question 11.

Conversion of foreign into Danish currency is made at the sight rates for the day on which the goods are purchased. If that date cannot be given and verified, the Customs shall take the rate on the invoice date, or the previous quotation if no rate was quoted for that date. If none of these dates can be ascertained, the Customs may take the rate obtaining on the day on which the goods are cleared.

For the conversion the selling sight rates quoted by the Danmarks National bank (the Central Bank) are used. These selling sight rates deviate from the par values recognised by the International Monetary Fund only in the manner permitted in the agreement on the International Monetary Fund.

Multiple rates of foreign exchange are not quoted in this country.

Question 12.

No other charges than duty and internal taxes, if any, are levied on imports.

As a rule internal taxes are levied on the basis of the sale price of the product from manufacturer, wholesale dealer or importer to retailer, or on the basis of the price paid by the consumer. These rules apply equally to imported and domestic products. Where the tax on imported goods is levied on importation, the value for the purpose of assessing the tax is fixed on the basis of the dutiable value.

FEDERAL REPUBLIC OF GERMANY

Question 1.

Valuation for customs purposes based on arbitrary or fictitious values not related to the value of the imported merchandise is not permitted.

Question 2.

Valuation for customs purposes of imported merchandise may not be based on the value of comparable domestic products.

Question 3.

The value for customs purposes is considered to be the actual value of the imported merchandise on which the duty is levied. Provision to that effect is made in paragraph 1 of Article 6 of the Customs Tariff Law, which reads as follows:

"Article 6

Normal Price

"(1) The normal price shall be such price as the imported goods would fetch on a sale in the open market between buyer and seller independent of each other and at such time as is relevant for the application of the customs regulations (Article 58 and 60 of the Customs Law)."

Question 4.

The normal price is considered to be the price which the goods would fetch at the time when they are entered for home use or temporary duty-free admission.

To provide for wide acceptance of the invoiced price as the value for customs purposes, a reasonable time tolerance is allowed to enable the invoiced price to be accepted.

Question 5.

Valuation is based on the price which the goods would fetch under a contract of sale providing for delivery of the goods at the port or place of introduction into the country of importation.

Question 6.

Valuation is based on the landed price of the goods in the country of importation, i.e. the c.i.f. price paid by the importer.

Question 7.

The value for customs purposes is determined uniformly on the basis of the price which relates to quantities comparable to the quantity of the goods to be valued. However, where a quantity of goods purchased is imported in partial shipments, the customs regulations, with a view to enabling the invoiced price to be accepted, allow the determination of value for customs purposes to be based on the total quantities sold.

Question 8.

The invoiced price is accepted as the value for customs purposes within the limits of a tolerance allowed in respect of the time element (see answer to Question 4), provided that it corresponds to the usual competitive price the imported merchandise would fetch in the open market between buyer and seller independent of each other. Where the invoiced price differs from the open market price qualifying as a normal price by more than is accounted for by the price fluctuations usual in the trade concerned, the value for customs purposes is determined, as the case may be,

- a) by using the invoiced price subject to corrections or
- b) by using the sale price subject to adjustments to take account of expenses incurred after importation and of the importer's profit.

Where neither the invoiced price nor the sale price were acceptable as a basis for valuation, the dutiable value has, in a small number of cases, been determined on the basis of the prices which competitive imported merchandise of like nature does fetch. In exceptional cases where the goods are not normally the subject of a sales contract (e.g. motion pictures, high-grade patented machines) the dutiable value has been estimated on the basis of the rent due for the period of the normal useful life of the article, if a fixed rent had been agreed upon, or, if no such rent had been agreed upon, on the basis of cost of manufacture, or on the basis of licence fees, if any.

Question 9.

The Customs Tariff Law provides for only one method of valuation. Therefore, the customs officer is not free to choose between alternatives.

Question 10.

The exclusion of internal taxes from the dutiable value applies only to those taxes from which the imported goods have been exempted. In our opinion, this covers, by definition, only such internal taxes as are imposed directly on the goods, in other words, taxes which are directly incidental to the manufacture or delivery of the goods (e.g. customs duties, excise taxes, turnover tax); it does not cover direct taxes or social charges.

Question 11.

In the case of foreign currencies in which foreign currency dealings have been authorized, conversions are made on the basis of the official rates of exchange fixed by the Bank deutscher Länder. In the case of any other foreign currency, conversions are made on the basis of the selling rate officially fixed by the Bank deutscher Länder. The rates to be applied are officially communicated to the customs offices by the Federal Minister of Finance.

Question 12.

Other charges on imports, if they are neither internal taxes nor an equivalent thereof, are not assessed on the value of the imported goods.

The same method of valuation is applied for the assessment of the turnover equalization tax, which is levied on importation and is equivalent to an internal tax (turnover tax).

Question 13.

Our export trade has met with serious difficulties resulting from methods of valuation in the case of those countries where not one, but different alternative methods can be applied in determining the dutiable value of imported goods.

I N D I A

Question 1.

There is no provision for fixing arbitrary or fictitious values. Invoice values are generally accepted, if fair.

Question 2.

There are no legal or administrative provisions which require valuation for customs purposes to be based on the values of comparable domestic products.

Question 3.

Valuation in India is principally based on Section 30 of the Sea Customs Act (copy attached). Under this Section valuation is to be made in each case on the wholesale cash price for each case, for which goods of the like kind and quality are sold or are capable of being sold at the time and the place of importation or exportation. Where such wholesale cash price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such places is taken.

In practice only a few articles are assessed on their market values. A list of such articles is issued by the Custom Houses for the guidance of the trade. In all other cases valuation is based mostly on the invoices submitted by the importers. Where on account of the close association between the importer and the exporter, or other sufficient reasons, the invoice values are considered lower than those of the goods of like kind and quality, the Custom House fixes a fair value on the basis of the import values of the latter goods. (Against such valuation the importer has a right of appeal and revision to higher authorities.)

Under Section 22 of the Sea Customs Act (copy enclosed), the Government of India may from time to time, by notification in the Official Gazette, fix for the purpose of levying duties, tariff values for any goods exported or imported by sea on which customs duty is leviable. These values usually hold for a year. They are based on the average values of importation or exportation during the preceding year, with some allowance for the possible future trend of the prices of those commodities. Before they are fixed by Government, the provisional tariff values are circulated to the principal Chambers of Commerce and finalized in the light of their submissions. The tariff values are fixed only for a small proportion of the articles imported, and are a measure of convenience both to the Custom House and the trade in that the values so fixed are applied without dispute at the time of importation or exportation.

Question 4.

The time accepted in the Sea Customs Act is the time of importation or exportation as the case may be.

No attempt is made, however, to apply this strictly, as to do so would involve the Customs Department in an amount of labour which would be out of proportion to the benefit that would result. In practice, therefore, the invoice values are accepted even though the cost may represent the price contracted at a period earlier than is absolutely necessary, for the contract to be accepted and the goods to be shipped out to India.

Question 5.

The place accepted is the place of importation - normally the port at which the goods are landed or brought for importation or exportation.

Question 6.

- (a) Internal prices of the goods in the market of the exporting country are not normally taken into consideration except when it is required to show that the invoice values are not acceptable because they do not conform approximately to the values of goods of the same kind and quality, imported from that particular exporting country.
- (b) Export price is also not taken into consideration except in the foregoing exceptional circumstances.
- (c) Landed price in the importing country: Mostly, this is the normal basis of valuation, save and except for the goods assessed on the market value under clause (a) of Section 30 of the Sea Customs Act.

Question 7.

Yes. In computing the prices of the goods of like kind and quality, lower prices based on large quantities are also allowed.

Question 8.

Normally invoice values are accepted. When it is established that such values do not conform to those under competitive conditions, the first two alternatives are followed. Where invoice prices for goods of the like kind and quality are available they are applied, and the invoice is suitably corrected by the addition, whereas in the case of those monopoly products for which such comparable invoice prices are not available, it is the practice to deduce the landed cost from the sale price of the imported product in India, after making suitable adjustment for post importation charges and profits. A similar practice is followed for exports.

Question 9.

The Customs Officer is not free to choose between the alternatives of assessment on the market value or on the invoice value. Whenever a wholesale market exists, the Customs House is obliged to assess on that value, and in accordance with the published lists of articles assessable on the market value. In all other cases assessment is made on the invoice values, if fair.

In setting aside invoice values the officer has to satisfy his superiors and, to the extent possible, the trade that the proposed assessment is in conformity with the provisions of Sea Customs Act and the value proposed to be adopted is in line with the cost of goods of the like kind and quality that have been delivered or could be delivered at that port.

Question 10.

The general rule is to exclude from the value of imported goods the amount of all internal taxes from which the imported product has been exempted in the exporting country. This is not limited to the purchase tax. It may, for example, extend to drawbacks paid on export by the foreign countries. The principle is that such taxes should not form part of the value of the exported product at the time and place of export. For instance, royalties paid would be included for assessment because the cost continues to be associated with that article throughout.

Question 11.

Normally foreign currency is converted for valuation purposes at the rate current on the date of the Bill of Entry is filed in the Customs House. The rates are ascertained from the principal exchange banks of the locality.

In the case of sterling, as a matter of convenience, a blanket rate of exchange, at 1/6d. to the rupee, is applied provided the current exchange rate does not fluctuate by more than 1/32d. per rupee.

In practice the bank rate obtained from the principal exchange banks is invariably adopted in all other cases.

Question 12.

The Central Government do not levy any other charges on imports as a duty. The Port Trust may levy charges for dock facilities, depending on the weight and/or value as the case may be; but they are corporate authorities and the charges are not part of Customs revenues.

No internal taxes are levied by the Central Government on imported goods; but they are liable to local taxes in the same manner as local goods, e.g., some State Governments levy sales tax at varying rates. But such taxes are uniform for both imported and locally produced goods.

Question 13.

The data for this question are not yet fully available. Further information is being called for by cable and will be furnished in a supplementary statement.

SEA CUSTOMS ACT

(Act VIII of 1878)

SECTION 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.

SECTION 22. "The Central Government from time to time, by notification in the Official Gazette, fix, for the purpose of levying duties, tariff-values of any goods exported or imported by sea on which customs duties are by law imposed and alter any such values fixed by any Tariff Act for the time being in force."

INDONESIA

Question 1. No.

Question 2. No.

Question 3.

Yes. The basis for valuation is the actual value of the merchandise which is entering into the customs territory for trade in the country.

The legal text, which is still applicable at this time, only indicates that for valuation purposes the "value in entrepôt" must be applied. (Article 31 of the regulation A. annexed to the "Customs Ordinance" of 1882 as lately amended in 1931).

The meaning "value in entrepôt" is to be confined to the value represented by the goods in entrepôt for entering into the domestic trade of the country, when the import duty is due for payment. (Administrative order by the Minister of Finance No. 1900 H of 7 May 1917.)

In the case of the actual value being unknown, the customs will be satisfied to accept as such the price for which similar goods can be obtained. (Administrative order of the Inspector in Chief of Customs and Excise of 4 September 1917, No. 3634 H.)

Question 4.

The date prior to the date of importation.

Question 5.

The place of importation.

Question 6.

(a) No.

(b) No.

(c) Yes.

Question 7.

If the price of the goods is dependent on the quantity purchased, the price to be considered should relate to quantities not less favourable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.

Question 8.

The price contained in the invoice can only be regarded as a basis for calculating the "value in entrepôt", if the invoice refers to a normal purchasing transaction and if the price is one for which the goods involved could lately be obtained in the country of origin.

Where invoice value is not so accepted as a basis, the sale price of the imported product on the importing market is used, adjusted to take account of expenses and profits incurred after importation.

Question 9. No.

Question 10.

Yes. This exclusion is not limited to specified taxes, but is also granted to any internal tax or charge from which exemption has in fact been granted by the exporting country.

Question 11.

The conversion rates of exchange to be used for converting prices expressed in the currency of foreign countries for customs valuation are those quoted by the National Bank (Bank of Indonesia) on the day of presenting the import declaration to the collector of customs.

Question 12.

Statistical duty is levied in addition to the ordinary customs duty.

The same method of valuation is applied in assessing this duty as in the case of the customs duty.

The same method is being applied in the case of internal taxes.

Question 13.

Up till now difficulties falling under this category have not been reported to governmental agencies.

NEW ZEALAND

Question 1. No

Question 2. No

Question 3.

Yes. Section 114 of the Customs Act, 1913, quoted hereunder provides the basic standard in New Zealand for the valuation of goods for purposes of duty:

Section 114, Customs Act, 1913

"Current domestic value" defined. - (1) When any duty is imposed on goods according to the value thereof or where for any other reason the value of any goods is to be determined for the purposes of the Tariff such value shall be taken to be the fair market value of such goods when sold for cash in the ordinary course of business for home consumption in the principal markets of the country from which the goods are exported at the time when they were so exported, with ten per centum added to such fair market value. Such fair market value is hereinafter in this Act referred to as the current domestic value:

"Provided that, where so indicated in the Tariff, the current domestic value of any goods shall be ascertained by reference to their value at the port of export to New Zealand in lieu of their value in the principal markets of the country of export, but otherwise in accordance with the provisions of this section.

"(2) No deduction of any kind shall be allowed from the current domestic value of such goods because of any special or sample discount, or because of any special arrangement concerning the export of the goods, or the exclusive right to the sale thereof within certain territorial limits, or because of any royalty payable upon patent rights but not payable when goods are so exported, or on account of any other consideration by which a special reduction in price has been, or might be, obtained.

"(3) If it is proved to the satisfaction of the Collector that any drawback of import duty or excise duty has been paid or allowed upon any parts, materials, or ingredients used in making any goods or that any import duty or excise duty has been actually paid upon the goods in the country from which they were exported, or would have been payable upon the goods in that country if they had been there entered for home consumption instead of being exported therefrom, the amount of that duty or drawback shall be deducted from the current domestic value of the goods as determined in accordance with the foregoing provisions.

"(4) When the current domestic value of any goods when sold for cash for home consumption as aforesaid depends in the ordinary course of business upon the quantity sold, such value shall be determined by reference to the quantity actually imported at one and the same time by the same importer from the same seller or supplier, save and except that if the goods are imported under a bona fide contract of purchase made in the ordinary course of business and including a greater quantity of such goods than that which is actually imported at one and the same time, the current domestic value of such goods shall be estimated by reference to the aggregate quantity so included in that contract and imported or to be imported in pursuance thereof within a period not exceeding twelve months.

"(5) The determination of the Collector or, in the case of an appeal under the provisions hereinafter contained, the determination of the Minister, as to the existence and terms of any such contract as is referred to in the last preceding subsection, and as to the quantity by reference to which the current domestic value of any goods is to be estimated in accordance with that subsection, shall be final and conclusive."

Question 4.

Date of exportation from the supplying country.

Question 5.

Principal markets in the country of export. There is provisions in the second paragraph of subsection (1) of Section 114 of the Customs Act, 1913, quoted above, for ascertaining current domestic value by reference to the value at the port of export instead of at the principal markets, only where provision therefor is specially provided in the Tariff. The only tariff item in respect of which such provision is made is item 5(9) relating to wheat flour.

Question 6.

- (a) Valuations for Customs purposes are normally based on the internal price in the exporting country.
- (b) No. Except in the circumstances where it is impracticable to ascertain the true current domestic value and it is necessary to determine a current domestic value. In such cases the value may be determined having regard to the price at which the goods are sold for export. The authority for such determination is contained in the undermentioned provisions of Section 117 of the Customs Act, 1913, and Section 23 of the Customs Amendment Act, 1921:

Section 117 of the Customs Act, 1913.

"117. Valuation of goods by Collector. - (1) Subject to the provisions of this section, the amount of the invoice, after deducting therefrom all reasonable and lawful deductions in respect of discount, freight, insurance,

and other charges, may be accepted by the Collector as sufficient proof of the current domestic value of the goods for purposes of duty, and he may value the goods and assess the duty accordingly.

"(2) If the importer satisfies the Collector that the current domestic value of the goods for purposes of duty is less than the value as shown by the said invoice after making such deductions as aforesaid, the Collector shall value the goods at such lesser sum accordingly, and shall assess the duty on that value.

"(3) If the Collector has reason to believe or suspect that the current domestic value of the goods for purposes of duty is greater than the amount of the said invoice, after making such deductions as aforesaid, he may value the goods at such higher sum as he thinks proper, and assess the duty on that value accordingly."

Section 23 of the Customs Amendment Act, 1921.

"23. Special provisions as to valuation of goods for assessment of Customs duties. - (1) If it is, in the opinion of the Minister, difficult, inequitable, or impracticable to determine the value of goods for the purposes of duty in accordance with the provisions of section one hundred and fourteen of the principal Act, either because such goods are not sold for use or consumption in the country of export, or because they are not so sold in the ordinary course of business, or in quantities similar to those imported into New Zealand, or because the exporter retains the property in such goods, or because the goods are not imported on the sale thereof, or because the goods are not imported in pursuance of a bona fide contract of purchase made in the ordinary course of business, or because there is no reliable means of estimating the value of such goods owing to a royalty being imposed on them, or because the goods are usually or exclusively sold or disposed of by or to agents, or are sold or imported in or under any other unusual or peculiar manner, conditions, or restrictions, either by way of limitation of purchases from or sales to any persons or associations of persons, or for any other reason, the Minister shall determine the current domestic value of the goods in such manner and at such sum as he thinks just, and shall assess the duty accordingly, and his assessment shall be final.

"(2) The current domestic value of goods as determined in accordance with this section shall not exceed the price at which the goods are, in the country of exportation and at the time when they were exported, sold in the ordinary course of business for domestic consumption to the ultimate consumer, if such price can, in the opinion of the Minister, be ascertained:"

(c) No.

Question 7.

Yes. See sub-section (4) of Section 114 quoted above.

Question 8.

This question is interpreted to refer to the export price of the goods as shown on the invoice. As indicated in reply to question 6(b) the value for duty is not based on the export price except in particular circumstances when the true current domestic value cannot be ascertained.

In cases, for example, where similar goods to those exported are not sold in the domestic market in the exporting country or are not sold there in the same condition as those exported and there is, therefore, no actual domestic value, such value may possibly be assessed by reference to the cost of production of the goods and by adding thereto a reasonable profit to arrive at a domestic value. In all such cases the purpose is to arrive at a fair and equitable domestic value for duty purposes. In no case is such value determined in relation to the sale price in New Zealand of the imported product.

Question 9.

No such provision.

Question 10.

Yes. The exclusion is not limited to specified taxes but is extended to any internal taxes or charges from which exemption has been granted by the exporting country.

Question 11.

- (a) The general policy is to convert foreign currencies at the official banking rate of exchange for telegraphic transfers.
- (b) The official banking rate of exchange is based on the par value recognized by the International Monetary Fund.
- (c) New Zealand uses the official banking rates.
- (d) The official rate would be applied unless special circumstances required a different course. In point of fact New Zealand has had very little experience of imports from countries requiring particular consideration.

Question 12.

No charges (except sales tax payable at time of importation in certain cases) on imports other than ordinary Customs duties are assessed on the value of imported goods.

In respect of the Sales Tax payable on imported goods at the time of importation the value for sales tax purposes is based on the value for duty plus certain additional amounts to arrive at the taxable value.

Question 13.

We have no evidence of this.

N O R W A Y

Question 1. No. (Attention is, however, drawn to the reply under item No.6).

Question 2. No..

Question 3.

Yes. In accordance with paragraph 8, section 1, of the preliminary provisions of the Customs Tariff, the valuation is usually based on the price of the merchandise in the exporting country (with addition for freights etc.). (The Customs Tariff's preliminary provisions, paragraph 8, see Annex)

Question 4.

The Norwegian legislation does not give an accurate definition of the time of sale or offer for sale. The date of the invoice, or the date of the sales contract is the basis for valuation.

Question 5.

Nor does the legislation give an accurate definition of the place of sale, except that it establishes the price of merchandise in the exporting country as the basis for valuation.

Question 6.

When the merchandise is sold at a price lower than the ordinary wholesale selling price obtained at the home market of the exporting country at the time of sale, or at a price lower than the wholesale export selling price of that merchandise or of merchandise of like description, the customs duty is to be levied on the increased value ascertained by basing the calculation on the higher price. However, this rule is only applied comparatively rarely, and almost only when export rebates have been granted, which do not correspond to home market rebates. No such rebate is deductible. As a general rule, no special investigations are made to check on the home market price, or the export price to a third country. The invoice price is normally the basis for valuation.

Question 7.

The customs valuation regulations do not contain anything definite regarding quantity rebates, but they are interpreted and put into practice in such a way as to permit a deduction of ordinary quantity rebates from the customs value when they refer to a definite quantity on which duty is payable.

Question 8.

In most cases the invoice price is the basis for valuation, as mentioned under item 6. Even where the invoice price is not accepted the valuation is still based on it - with necessary adaptions. When it is impossible to

procure all particulars necessary for determination of the value, the valuation can be based on the sales value in Norway of the imported goods, and if even this is not known, the valuation may be made approximately by the customs authorities. These methods of procedure are practically never used. Neither is the production price of the imported goods ever used as a basis for valuation.

Question 9.

Apart from the methods already mentioned the present regulations do not establish alternative methods of valuation.

Question 10.

The regulations do not explicitly authorize a deduction of taxes which the merchandise has been or will be exempt from when exported, but this is indirectly understood and practised. The deduction is not limited to particular taxes.

Question 11.

In accordance with the Customs Tariff's preliminary provisions, paragraph 8, last section, the vista quotation in Oslo is applied when foreign currency is converted to Norwegian kroner.

The Customs Department have, in accordance with paragraph 8, section 7, determined that the vista quotations ruling on the day of the customs clearance shall be used, i.e. the official rate of exchange for the foreign currency in question on the day of the customs clearance. This rate of exchange is not necessarily exactly the same as the rate of the International Monetary Fund, but the difference is generally insignificant.

The vista quotations are also used when the merchandise is imported from a country applying multiple rates of exchange. In that case the question of using the higher home market price as a basis for valuation may arise. As far as it is known there has, however, been no import of such merchandise, subject to ad valorem duty.

Question 12.

In the case of certain goods import licence fees are charged based on the value, and the same applies to a transportation tax. In both cases the same rules apply as for the valuation.

When the ordinary purchase tax, which is based on the home retail price (final sale), is due already at the time of the customs clearance, i.e. in cases where the merchandise is sold directly from abroad to a consumer in Norway, the computation of the tax is based on the valuation with addition of customs duty, transportation tax, licence fees, and other possible special merchandise taxes (see below), which would normally be included in the retail price by sale on the home market.

When the special taxes, which are due on the home wholesale turnover of certain merchandise (e.g. goods made from chocolate and sugar, gold and silver articles, jewellery, cosmetics, etc.), and which are based on the home wholesale price, are due already at the time of the customs declaration their levying is usually based on the valuation, with addition of customs duty, transportation tax, and a further amount which represents the normal wholesale profit made on the merchandise in question, calculated on a percentage.

Question 13.

The export to Canada and the United States of America has been hampered by the regulations in force in the two countries concerning the customs valuation.

A N N E X

(Paragraph 8 of the Customs Tariff preliminary provision)

When goods are subject to ad valorem rates, the value generally taken shall be the price of the goods in the country of export, to which, if not included in such price, the following shall be added:

- (a) Export duty, if any;
- (b) Cost of packing;
- (c) Freight and other shipping charges, such as insurance, cartage, etc. incurred up to the landing or discharge of the goods at the place of destination.

When merchandise has been sold at a lower price than the ordinary inland wholesale selling price obtaining in the country of exportation at the time of the sale, or than the wholesale export selling price of that merchandise or of merchandise of like description, duty shall be levied on the enhanced value ascertained by basing the calculation on the higher price. Duty shall likewise be assessed on the enhanced value ascertained by computing, instead of the freight actually paid, the freight usually paid for the goods in question.

In case goods are forwarded beyond the first Custom-House where they could have been landed or discharged, a deduction may be made in respect of the extra expenses caused by the freight and other shipping charges involved by the further transport, if duly proved.

When goods have been sold for delivery, duty shall be assessed according to the price in force at the time of sale in the foreign place of sale for delivery at the time agreed upon. If imported goods are not ultimately sold in Norway, the price at the time of shipment shall be deemed to be the selling price.

If goods have been deposited in a transit warehouse, or a free warehouse or free port, the Customs Department may decide that the duty shall be assessed according to the estimated price at the time of clearance.

Should it be impossible to procure the necessary particulars enabling determination of the value of goods, such value shall be taken as equivalent to the selling price (inclusive of packing cost but exclusive of Customs duty), fixed in Norway from the wholesale merchant to the retailer at the time of clearance. If such selling price cannot be established, or if the goods are seriously damaged, the Customs at the place of clearance will estimate the value.

The Customs Department will decide whether the conversion of foreign values into Norwegian money is to be based on the rate of exchange of the day of clearance at the Custom-House, or on the rate of some other date.

The vista quotations ruling at Oslo shall be followed. If the value in question is not quoted at Oslo, the Customs Department will issue instructions accordingly.

THE FEDERATION OF RHODESIA AND NYASALAND

It should be understood that there is no Federal Customs legislation as yet. The following replies are given in relation to proposed Federal legislation which will be substantially the same as that of Southern and Northern Rhodesia as at present:

Question 1.

There are no administrative or legal provisions which permit valuation for customs purposes to be based on arbitrary or fictitious values.

Question 2.

There are no administrative or legal provisions which permit valuations for customs purposes to be based on values of comparable domestic products.

Question 3.

Valuation is based on a definition of value which seeks to establish as a standard the actual value of the merchandise, in the country of exportation, on which duty is to be assessed, or of like merchandise.

Provision is made for this in the Customs Law.

In the consolidated Federal Customs Law the legal provision will be substantially the same as that now operative in Southern and Northern Rhodesia, and which is:

"(1) For the purpose of assessing the amount of any customs duty and for the purpose of the declaration and oaths which may at any time be required by law or regulation in relation to any question of such duty, the value of such goods for purposes of duty shall be taken to be the domestic value as hereinafter defined, plus the extra cost of packing and packages for export and carriage to the port of shipment;

"Provided that in no case shall the value for purposes of duty be less than the free-on-board price of the goods to the importer, including agents' or buying commission in excess of five per centum.

"(2) In the case of goods imported into the Colony overland, the provisions of sub-section (1) of this section shall likewise apply, subject to the substitution of the words "place of despatch" for the words "port of shipment", and of the words "free-on-rail or other vehicle" for the words "free-on-board".

"(3) For the purposes of this section, "domestic value" shall in respect of goods imported into the Colony, be the market price at which at the time of exportation such or similar goods are offered for sale, for consumption in the country from which the goods are exported, to all purchasers in wholesale quantities in the ordinary course of trade in the principal markets of such country, including the cost of packages

ordinarily used in those markets but less any drawback or remission of duty granted by the Government of the exporting country on exportation:

"Provided that if goods are imported into the Colony out of a customs or bonded warehouse situated within the district of Beira in Portuguese East Africa and such goods were at the time of importation into the warehousing in Beira the property of a person domiciled in the Colony, the country from which goods were exported to Beira shall, for the purposes of this section, be deemed to be the country from which they were exported to the Colony.

"(4) In determining domestic value, goods shall not be deemed to be offered for sale in the ordinary course of trade in the principal markets of the country of export within the meaning of this section when -

- (a) they are not sold for use or consumption in that country; or
- (b) a hiring thereof or the right of using the same, but not the right or property therein, is sold or given; or
- (c) any royalty imposed thereon is uncertain; or
- (d) they are usually or exclusively sold by or to agents or by subscription; or
- (e) they are sold in or under any other unusual or peculiar manner or conditions.

"In all such cases the value for purposes of duty shall be determined by the Controller, and the value so determined shall be the value upon which duty shall be assessed and levied.

"(5) If any question arises as to the correctness of any certificate of domestic value given by the manufacturer or supplier in the country of export, or of any statement of freight charges paid or to be paid, made by the shipper or ship's agent in the country of shipment, a written certificate signed by a person in that country specially designated by the Controller, certifying such value or freight charges, shall, for the purpose of assessing the amount of any duty or any other matters incidental to such purpose, be accepted as conclusive evidence of such value or freight charges, as the case may be."

It will be seen that the value for duty purposes is either the current domestic value in the country of exportation or the f.o.b. price to the importer, whichever is the greater.

Question 4.

Where the current domestic value is applied, the time which is accepted is the time of shipment.

Where the f.o.b. price is applied it is the actual contract price unaffected by a time factor.

Question 5.

Place of Sale: Where the current domestic value is applied it is the principal markets in the exporting country.

Where the f.o.b. price is applied, it is the place of contract.

Question 6.

The valuations are based entirely on:

- (a) The internal price of the goods in the market of the exporting company with the alternative, whichever is the higher, of -
- (b) The export price in the country of contract,
- (c) Not applicable.

Question 7.

When the domestic value basis is applied the price used for valuation is not uniformly that which relates to quantities comparable to the quantities to be valued. The basis is the price to all purchasers in wholesale quantities in the principal markets in the country of exportation.

When the f.o.b. criterion is applied it will be the actual price paid whatever allowances for quantities may have been made by the seller.

*Question 8.

The price accepted is that at which the merchandise has been sold (i.e. the invoice price), or is offered for sale in the ordinary course of trade in the country of exportation. When the invoice value is not accepted, i.e. when the transaction does not take place under fully competitive conditions, the basis used, uniformly, is the invoice price subject to corrections.

Question 9.

The Customs laws provide for the use of alternative methods of valuation, i.e. the current domestic value or the price f.o.b., the customs officer is obliged, by Customs law, to adopt that which gives the higher value.

Question 10.

In the case of an assessment based on the domestic value, all internal government taxes from which the imported product has been exempted in the exporting country, are excluded.

Where the assessment is based on the f.o.b. price such taxes are included if they are included in the price to the importer.

The exclusion, where granted, is limited to customs and excise duties and purchase tax.

Question 11.

For the conversion of currencies the rates used are:

(i) When the domestic value is the basis of valuation - the official market rate.

(ii) When the f.o.b. price is the basis, the actual rate at which the importer is charged.

If the product comes from a country applying multiple rates of exchange, the official rate applying to commodities would be adopted. In cases of uncertainty a rate calculated to compare with the rate applying to commodities would be determined.

Question 12.

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

If it were necessary to apply an ad valorem surtax to equate with an ad valorem excise on a like domestic product the valuation for such levy would be the same as the valuation for duty purposes.

Question 13.

There is no record of the Federation's export trade having met with serious difficulties resulting from methods or practices adopted by other contracting parties for determining the value of imported products.

UNION OF SOUTH AFRICA

Question 1.

There are not any administrative or legal provisions permitting 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 imported merchandise.

Question 2.

Valuation for customs purposes is not based on the value of comparable domestic products, it being understood that the word "domestic" in this context relates to the importing territory (i.e. the Union of South Africa in this case).

Question 3.

The basis to be used in determining the dutiable value of imported goods is set forth in Sections 88 and 89 of the Customs Act (Act No. 35 of 1944). Basically, the value for duty purposes is either the domestic value of the goods in the country of export (as defined in sub-section (1) of Section 89 or as determined in terms of the provisions of sub-section (2) thereof), or the free on board cost of the goods to the importer (including any agent's or buying commission in excess of 5 per cent), whichever is the greater.

The definition of domestic value in Section 89(1) refers to "... the market price at which such or similar goods are freely offered for sale... in the ordinary course of trade". In practice duty is ordinarily assessed on the actual value of the goods imported, in instances where the conditions prescribed in the definition of domestic value are present or where the free on board cost of the goods forms the basis for duty assessment. It is usual to resort to the value of similar (or like) goods only for the purpose of value determination under Section 89(2), i.e. in instances where the value is not ascertainable in accordance with the conditions prescribed in the definition of domestic value in sub-section (1).

The texts of Sections 88 and 89 of the Customs Act (Act No. 35 of 1944) were reproduced in document L/81/Add.2, page 8.

Question 4.

The legislation specifies the "time of exportation to the Union" as the time of sale, or offer for sale, for valuation purposes, except in respect of anti-dumping duty legislation where the relative date is that of purchase of the goods by the importer. The time of exportation (or date of shipment) is ordinarily taken to be the date of the bill of lading.

Question 5.

The place of sale, or offer for sale, for valuation purposes is referred to in the legislation as the principal markets of the territory from which exportation takes place. This place is, however, replaced by free on board the port of shipment or other place of final dispatch in the territory from which exportation takes place in instances where duty is assessed on the f.o.b. cost of the goods to the importer, in terms of the proviso to Section 88(1).

Question 6(a).

Valuations are based on the internal price of the goods in the market of the exporting country, subject to the proviso that in no case shall the value for purposes of duty be less than the free on board cost of the goods to the importer, including any agent's or buying commission in excess of 5 per cent.

Question 6(b).

The export price in the exporting country, where it represents the f.o.b. cost to the importer, is therefore utilized for the assessment for duty only when it exceeds the domestic value in the exporting country as defined in the Customs Act.

Question 6(c).

Duty is not assessed on the basis of the landed price in the importing country.

Question 7.

Where domestic value, as defined, is the basis for duty assessment, quantity is uniformly related to "usual wholesale quantities" in the principal markets in the territory from which exportation takes place which would not necessarily represent quantities comparable to those to be valued. On the other hand quantity is naturally not a factor to be considered when duty is assessed on the f.o.b. cost to the importer in terms of the proviso to Section 88(1).

Question 8.

The standardised invoice to be produced in connection with the entry of goods is required to have inserted thereon and certified by the suppliers, both the current domestic value in the currency of the exporting country and the selling price to the purchaser. The values reflected on such invoices would therefore ordinarily be accepted as the basis for valuation, provided they are in accordance with the requirements of the definition of value.

Where invoice values are not acceptable because, for example, the transaction does not take place under fully competitive conditions, it is not the practice to use any of the bases mentioned under paragraph 8(a) but to determine the value for duty purposes in accordance with the price at which such or similar goods are

freely offered for sale in the usual wholesale quantities in the ordinary course of trade to all purchasers in the principal markets in the country of exportation.

Question 9.

As has already been mentioned, the legislation provides for valuation on the basis of the domestic value in the exporting country, provided that such is not less than the f.o.b. cost to the importer. This obliges the customs officer or appraiser to adopt the alternative which gives the higher value.

Question 10.

Excise duties or sales taxes (including purchase tax) imposed by the government of the exporting country are excluded from the domestic value where such is the basis for duty assessment.

Question 11.

Foreign currencies are converted for valuation purposes at the relevant market rates of exchange quoted by the South African commercial banks. For conversion of both the current domestic value and the selling price to the purchaser where the latter is also expressed in foreign currency, the exchange rates for telegraphic transfers current at the date of shipment (i.e. bill of lading date) are utilized; the "buying" rate for conversion of the current domestic value and the "selling" rate for the f.o.b. price to the importer. In the assessment of 'ordinary' dumping duties the rates of exchange ruling at the date of purchase (or contract) are however applied in the conversion of both the domestic value in the exporting country and the export price.

Question 12.

Apart from the duties provided for in the Customs Act, wharfage charges payable to the Harbour Authorities are also assessed on the value of imported goods. The value for wharfage purposes is the same as that accepted for customs duty purposes.

There are no internal taxes applied to imported goods on an ad valorem basis.

Question 13.

Serious difficulties resulting from methods or practices adopted by other contracting parties for determining the value of imported products have not been experienced by South Africa's export trade.

UNITED KINGDOM

Question 1. No

Question 2. No

Question 3.

Yes. Briefly stated, the basis of valuation for customs purposes is the price which the imported goods would fetch at the time when they are entered for home use (or, if they are not so entered, the time of importation), on a sale in the open market between buyer and seller independent of each other. This price is determined on the assumption that the seller bears all the charges and expenses incidental to the sale and delivery of the goods at the place of importation. The relevant legal provisions are contained in Section 258 of the Customs and Excise Act 1952, and the Sixth Schedule to that Act, the texts of which are attached and are in accordance with the provisions of the Brussels Convention on the Valuation of Goods for Customs purposes.

Question 4.

The time when the imported goods are entered for home use or, if they are not so entered, the time of importation.

Question 5.

The legislation provides that the price to be taken as the value shall be determined on the assumption that the goods are treated as having been delivered to the buyer at the port or place of importation.

Question 6.

Valuations are based on the landed price in the United Kingdom.

Question 7.

The price used for valuation is that appropriate to the quantity to be valued.

Question 8.

The invoiced price is accepted as the basis for valuation when the transaction is a bona fide sale in fully open market conditions. Such acceptance is subject to proper adjustment of the price to take account of

any circumstances differentiating the contract of sale from such a contract as is contemplated by the Sixth Schedule to the Customs and Excise Act 1952. Imports of goods into the United Kingdom are, to a major extent, the subject of open market transactions to which this basis of valuation is applied.

Where the invoice value is not acceptable, the value in conformity with the legal provisions referred to in the reply to Question 3 has to be assessed, and each case is dealt with on its merits. Either

- the invoice price, subject to corrections, or
- the sale price of the imported product on the importing market, adjusted to take account of expenses and profits incurred after importation,

as appropriate, may be used as the basis of valuation. Where these methods cannot be employed, the value is assessed on the basis of all the available evidence of the price the goods would fetch in the circumstances contemplated by the legal provisions.

Question 9. Not applicable.

Question 10.

Yes, insofar as the price of the imported goods in accordance with the valuation provisions reflects the exemption from internal taxes in the exporting country. There is no limitation of this exclusion to specified taxes.

Question 11.

Subsection (2) (c) of Section 258 of the Customs and Excise Act 1952, provides that prices in foreign currency shall be converted to sterling at the current selling rate last notified in the United Kingdom. Conversion is, therefore, at market rates; but where the foreign currency has a par value recognized by the International Monetary Fund, market rates in the United Kingdom are based on that par value. In the case of goods from a country applying multiple rates of exchange, it is customary for the price to be quoted in sterling.

Question 12.

In the United Kingdom there are no charges of the kind to which the Question refers. Imported goods are, however, liable to purchase tax in so far as if they were home-produced goods they would be so liable. This tax may be payable on importation or at a later stage. The basis of valuation for this tax is the same for both imported goods and home-produced goods and is, very briefly stated, the price payable by an ordinary retailer.

Question 13.

Except in the United States of America, United Kingdom export trade has met with no serious difficulties resulting from methods or practices adopted by other contracting parties for determining the value of imported products.

ANNEX

Customs and Excise Act 1952

Section 258

(1) For the purposes of any enactment for the time being in force whereunder a duty of customs is chargeable on goods by reference to their value, the value of any imported goods shall be taken to be that laid down by the Sixth Schedule to this Act, and duty shall be paid on that value:

Provided that, in the case of goods imported under a contract of sale and entered for home use, duty shall be deemed to have been paid on that value if, before the goods are delivered for home use, duty is tendered and accepted on a declared value based on the contract price.

(2) For the purpose of the proviso to the foregoing sub-section -

- (a) the declared value of any goods is their value as declared by or on behalf of the importer in making entry of the goods for home use;
- (b) that value shall be deemed to be based on the contract price if, but only if, it represents that price properly adjusted to take account of circumstances differentiating the contract from such a contract of sale as is contemplated by the Sixth Schedule to this Act;
- (c) the rate of exchange to be used for determining the equivalent in sterling of any foreign currency shall be the current selling rate in the United Kingdom as last notified before the time when the goods are entered for home use.

(3) The Commissioners may make regulations for the purpose of giving effect to the foregoing provisions of this section, and in particular for requiring any importer or other person concerned with the importation of goods to furnish to the Commissioners, in such form as they may require, such information as is in their opinion necessary for a proper valuation thereof, and to produce any books of account or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.

(4) If any person contravenes or fails to comply with any regulation made under this section, he shall be liable to a penalty of fifty pounds.

SIXTH SCHEDULE

Value of Imported Goods

(1) The value of any imported goods shall be taken to be the normal price, that is to say the price which they would fetch, at the time when they are entered for home use (or, if they are not so entered, the time of importation), on a sale in the open market between buyer and seller independent of each other.

(2) The normal price of any imported goods shall be determined on the following assumptions: -

- (a) that the goods are treated as having been delivered to the buyer at the port or place of importation; and
- (b) that the seller will bear freight, insurance, commission and all other costs, charges and expenses incidental to the sale and the delivery of the goods at that port or place; but
- (c) that the buyer will bear any duty or tax chargeable in the United Kingdom.

(3) A sale in the open market between buyer and seller independent of each other presupposes -

- (a) that the price is the sole consideration; and
- (b) that the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question); and
- (c) that no part of the proceeds of the subsequent resale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

(4) Where the goods to be valued -

- (a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or
- (b) are imported under a foreign trademark, or are imported for sale (whether or not after further manufacture) under a foreign trademark,

the normal price shall be determined on the assumption that the price covers the right to use the patent, design or trade mark in respect of the goods.

(5) For the purposes of the last foregoing paragraph, the expression "trademark" includes a trade name and a get-up, and a foreign trademark is a trademark used for the purpose of indicating that goods in relation to which it is used are those of -

- (a) a person by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside the United Kingdom; or
- (b) a person associated in business with any such person as is referred to in sub-paragraph (a) of this paragraph; or
- (c) a person to whom any such person as is mentioned in sub-paragraph (a) or (b) of this paragraph has assigned the goodwill of the business in connection with which the trademark is used.

(6) Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them.

UNITED STATES

Question 1.

The only provision wholly in this category is that relating to "American Selling Price." Note section 402(a) (4) and (g) of the Tariff Act. Section 336 of the Tariff Act, referred to in Section 402(a) (4), relates to equalization of costs of production. In general, customs valuations are based on the value of the particular merchandise. However, in the case of certain coal-tar and related products which are competitive with articles manufactured or produced in the United States, the valuation is based on the American selling price. Certain canned clams, knitted wool gloves and mittens, rubber-soled footwear with fabric uppers, and footwear wholly or in chief value of rubber are valued for duty on the basis of the American selling price of the similar domestic product. American selling price is based upon the price at which the domestic article is freely offered for sale for domestic consumption to all purchasers in the principal market of the United States in the ordinary course of trade. It may be said that there are arbitrary elements in the statutory limitations on certain deductions and additions to be made in computing United States value (Section 402(e)) and cost of production (Section 402(f)) when it is necessary to use either of these bases of customs valuation.

Question 2.

Covered by the answer to Question 1.

Question 3.

Yes. See provisions of Section 402, attached.

Question 4.

It is the market value, determined by sales or offers for sale at or shortly before the date the particular merchandise undergoing appraisement was exported from the foreign country, which establishes statutory value.

Question 5.

The principal markets for the particular product in the country of exportation, or the market in the United States for the product when United States value or American selling price is being determined.

Question 6.

It will be noted in Section 402 of the Tariff Act that the first basis of value for consideration is whether there is a "foreign" or "export" value for the merchandise. Foreign value is established by sales in the home country for domestic consumption. Export value is established by sales in the home country for export to the United States. There is no provision in the law for the establishment of value on the basis of a landed price in this country.

Question 7.

The price for "usual wholesale quantities" is the basis for value irrespective of the particular quantity imported. The "usual wholesale quantity" is determined by the quantity most frequently sold. In these circumstances, an importer who can finance large purchases at lower prices does not have a lower unit valuation than the importer who must deal in smaller quantities. In some cases, although sales are made to wholesalers, all sales in the quantity most frequently sold are made to retailers, and in such cases the quantity involved in the sale to the retailer may be the "usual wholesale quantity".

Question 8.

Invoice prices are accepted only if the appraising officer is satisfied that they are equal to the value contemplated by the law.

- (a) Normally, in the case of a reasonably large importation, if it is felt that the invoice value is insufficient and the necessary information regarding value is not available to customs, an investigation is made in the foreign market to determine the price at which such or similar merchandise is freely offered for sale to all purchasers in usual wholesale quantities.
- (b) Briefly, Section 402 of the Tariff Act provides for the use of foreign or export value, whichever is the higher, as a basis for the assessment of duties. If the appraiser determines that neither the foreign value nor the export value can be satisfactorily ascertained, then United States value is used. United States value involves freely offered sales for consumption in the United States of prototype merchandise (substantially the same character of merchandise previously imported from the same country). If United States value cannot be satisfactorily ascertained, then the value is based on "cost of production."

Question 9.

As indicated in the answer to Question 8(b), the various bases of value are required to be adopted in a prescribed order of availability.

Question 10.

A foreign internal tax not applicable to exports is included in a customs value only if the goods are appraised at their foreign value. Whether an internal tax must be included in the foreign value depends entirely on the manner in which the tax is applied. If a tax is levied generally on sales at the manufacturing level, it would probably form a part of foreign value. If the tax does not become applicable until the goods reach the retail realm, or if it is applied differently for different classes of purchasers, it is probable that the tax would not form a part of foreign value. However, each case must be decided on the basis of the particular circumstances.

Question 11.

Foreign currency must be converted at the rates of exchange certified by the Federal Reserve Bank of New York to the Secretary of the Treasury as the buying rate in the New York market, whenever these rates vary by more than five percent from the gold coin parity proclaimed quarterly by the Secretary of the Treasury. Where the multiple rates of exchange are certified by the Bank, the rates to be used are those generally applicable to the particular imported goods.

Question 12.

The only assessments in connection with imported goods on the basis of value are the customs duties, some of which are designated as import taxes or import fees. Internal revenue taxes, which are levied on special classes of merchandise, involve specific rates.

Question 13.

United States railways and exporters have complained about the inclusion of inland freight in Australian value for duty on imports. Under the Australian Customs Act, inland freight to the port of export must be included in the value for duty. Thus, if goods are produced in St. Louis and are exported via Los Angeles, the freight cost between St. Louis and Los Angeles must be included in the value for duty. However, if the same goods are exported via Chicago and Vancouver, B.C., the freight cost between St. Louis and Chicago need only be included in the value for duty. Where urgent need requires shipping via Los Angeles, value for duty is increased by the amount of inland freight, but where time is not a factor, lower value for duty is possible by shipping via Chicago and Vancouver. This differential treatment is an incentive to the use of Canadian rail facilities and other than American flag vessels.

Australia

On the other hand, Canadian exporters may ship any way they desire, but they need only include in the value for duty the inland freight to the nearest port of exit. For example, a shipper in Toronto can send his goods via rail to Vancouver for shipment to Australia, but he will only include the cost of freight from Toronto to Niagara Falls, Canada, in his value for duty. When Canadian shippers obtain a through freight rate, and the proportion of such rate from point of origin to the Canadian border is less than the local freight from point of origin to nearest point of exit from Canada, they may include the portion of the through rate in the value for duty, regardless of whether actual shipment is from a Canadian or an American port.

Shippers in the United States have long urged that they be granted the same treatment as Canadian shippers to Australia, in order to eliminate any disadvantage under which American shippers now operate, and to prevent further efforts to divert shipments to Canadian railways and ships not operating under the American flag.

Canada

Several kinds of valuation problems have arisen involving Canada where the criteria set up by customs law or interpretation have had the effect of preventing the landing of exports at home market prices, as anticipated by GATT. United States exporters to Canada in various lines have complained.

1. With respect to end-of-the-market and end-of-season manufactures, an amendment of the Customs Act passed in December 1953 gave the Minister of National Revenue the authority to advance valuation for customs purposes when the price is less than the highest price at which the goods have sold in the home market in the preceding six months. In practice, a certification to the effect that the selling price is not lower is required on almost all kinds of manufactured goods. According to Canadian Government pronouncements, action under the amendment has been most important in the case of yard goods, clothing, leather footwear, pocketbooks and other accessories, refrigerators and other consumer capital goods. In all these, United States prices in the past year declined faster than Canadian prices, which in any event were higher. Advance in valuation, in this context, means the automatic application of dumping duty (which may not exceed 50 per cent of the invoiced price).
2. Another application, not covered by the 1953 amendment of the Customs Act, is the establishment of fixed minimum valuations for cut flowers to prevent end-of-the-day sales for export at prices which are allegedly not representative of the fair domestic market value. These minimum values for imports are established seasonally and are based on a record of published market prices in the preceding year.
3. Other advances in valuation are made for a variety of reasons. The Canadian Customs Act gives the Minister of National Revenue wide authority to make ad hoc definitions of dumping. For example, the value of printing plates and advertising matrices is advanced to take account of the higher production volume (and lower cost) in the United States market. This valuation is a survival of prewar practice which has not been changed by adherence to GATT.

Cuba

The Cuban Textile Commissioner stationed in the United States, who must approve all consular invoices covering textiles being shipped to that country before they can be legalized has, since 1950, been reported as rejecting such consular invoices when, in a rising market, they did not show the prices current on the day the invoice was submitted rather than the actual selling prices. Many United States textile exporters have complained of this practice.

Greece

In regard to the importation of automobiles and other products sold through exclusive distributors, Greek Customs Authorities have been adding 10 per cent to the distributor's net price for the determination of dutiable value, on the assumption that the distributor's net price is not a fully competitive "normal" price available to any buyer, but a special price which makes allowance for certain merchandizing and servicing costs that the distributor has to bear as a part of a special marketing arrangement with his foreign supplier. This problem has been submitted to the Council of European Customs Co-operation for consideration by its Committee on Customs Valuation.

United Kingdom

There have been two complaints of the post-war period involving the United Kingdom and numerous complaints in the pre-war period. All complaints have stemmed from the applicability of the definition of dutiable value in the Customs Act. Under this definition, the customs are granted wide discretionary powers as to valuation, with the practical result that shipments to branch plants, to subsidiary sales companies, or to distributors under exclusive or territorial arrangements, are generally subject to increased valuations, frequently resulting in a substantial increase over the invoice value of the goods. Most of the complaints have thus been over the uncertainty as to just what could constitute the legitimate elements of dutiable value for those goods which do not have an "open market" price in the United Kingdom and the uncertainty over the dutiable value on shipments to branch plants, etc.

ANNEX

SECTION 402, TARIFF ACT OF 1930, AS AMENDED

VALUE

- (a) Basis. For the purposes of this Act the value of imported merchandise shall be:
- (1) the foreign value or the export value, whichever is higher;
 - (2) if the appraiser determines that neither the foreign value nor the export value can be satisfactorily ascertained, then the United States value;
 - (3) if the appraiser determines that neither the foreign value, the export value, nor the United States value can be satisfactorily ascertained, then the cost of production;
 - (4) in the case of an article with respect to which there is in effect under Section 336 a rate of duty based upon the American selling price of a domestic article, then the American selling price of such article.
- (b) Review of Appraiser's Decision. A decision of the appraiser that foreign value, export value, or United States value can not be satisfactorily ascertained shall be subject to review in reappraisement proceedings under Section 501; but in any such proceeding, an affidavit executed outside of the United States shall not be admitted in evidence if executed by any person who fails to permit a Treasury attaché to inspect his books, papers, records, accounts, documents or correspondence, pertaining to the value or classification of such merchandise.
- (c) Foreign Value. The foreign value of imported merchandise shall be the market value or the price at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale for home consumption to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade, including the cost of all containers and coverings of whatever nature, and all other costs, charges and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States.

- (d) Export Value. The export value of imported merchandise shall be the market value or the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale to all purchasers in the principal markets of the country from which exported in the usual wholesale quantities and in the ordinary course of trade, for exportation to the United States, plus, when not included in such price, the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States.
- (e) United States Value. The United States value of imported merchandise shall be the price at which such or similar imported merchandise is freely offered for sale for domestic consumption, packed ready for delivery, in the principal market of the United States to all purchasers, at the time of exportation of the imported merchandise, in the usual wholesale quantities and in the ordinary course of trade, with allowance made for duty, cost of transportation and insurance, and other necessary expenses from the place of shipment to the place of delivery, a commission not exceeding 6 per centum, if any has been paid or contracted to be paid on goods secured otherwise than by purchase, or profits not to exceed 8 per centum and a reasonable allowance for general expenses, not to exceed 8 per centum on purchased goods.
- (f) Cost of Production. For the purpose of this title the cost of production of imported merchandise shall be the sum of:
- (1) the cost of materials of, and of fabrication, manipulation, or other process employed in manufacturing or producing such or similar merchandise, at a time preceding the date of exportation of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;
 - (2) the usual general expenses (not less than 10 per centum of such cost) in the case of such or similar merchandise;
 - (3) the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and
 - (4) an addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2) of this subdivision) equal to the profit which ordinarily is added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the production or manufacture of merchandise of the same class or kind.

- (g) American Selling Price. The American selling price of any article manufactured or produced in the United States shall be the price, including the cost of all containers and coverings of whatever nature and all other costs, charges and expenses incident to placing the merchandise in condition packed ready for delivery, at which such article is freely offered for sale for domestic consumption to all purchasers in the principal market of the United States in the ordinary course of trade and in the usual wholesale quantities in such market, or the price that the manufacturer, producer or owner would have received or was willing to receive for such merchandise when sold for domestic consumption in the ordinary course of trade and in the usual wholesale quantities, at the time of exportation of the imported article.

J A P A N

Question 1.

Do you have 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 imported merchandise? If so, give particulars of any such provisions, of the class or nature of the importations to which they are applied, and of the method by which the values used are determined.

None

Question 2.

Do you have any administrative or legal provisions which permit valuation for customs purposes to be based on the values of comparable domestic products? If so, give particulars of any such provisions, of the class or nature of the importations to which they are applied, and of the method by which the values used are determined.

Yes.

Paragraph 1 of Article 4 of the Japan's Customs Tariff Law provides that "The value for customs duty on any imported goods shall be taken to be the price of such goods or the goods of the same kind when sold in the ordinary wholesale quantity and in the ordinary course of trade in the exporting country at the time of exportation (exclusive of internal excise taxes to be reduced, exempted, or refunded at the time of their exportation), plus the ordinary expenses incurred prior and incidental to the loading of such goods on board the vessel at the port of exportation (inclusive of duties and charges thereon, if any) as well as the ordinary freight and insurance incurred up to the arrival of the goods at the port of importation (in case of such goods transported by air as may be prescribed by a Cabinet Order, freight and insurance for usual means of transportation other than air shall be taken)". This value for customs duty is generally determined on the basis of invoice or any other documents accompanying import declaration (Paragraph 2 of the same Article), but where neither invoice nor other document is produced to the Customs at the time of import declaration, where the statement in such documents is not acceptable as a true account of the goods (Paragraph 3 of the same Article), or where there is reason to believe that these documents cannot be regarded as reliable in such case as there is a long period between the time of arrival of the goods at a port of importation and the import permit of such goods and there arise a great fluctuation in their price during such period (Paragraph 4 of the same Article), the value for customs duty

is determined on the basis of such value for customs duty as has been determined according to the invoice or any other documents, if any, in respect of the goods of the same kind or similar goods recently arrived at the port of importation. Thus the determination of value for customs duty on the basis of the price of domestic goods is being avoided as far as possible. However, when it is impossible to calculate, as the value for custom duty on the imported goods, the wholesale price of such goods in the exporting country plus the ordinary freight and insurance incurred up to the arrival of the goods at the port of importation (CIF value), such value for duty purpose is determined, as the final method, "at the domestic wholesale price of the goods of the same kind or similar goods in Japan, minus the amount of custom duty and any other duties as well as charges which would be imposed or charged upon such goods, if imported into Japan, and ordinary expenses incidental to delivery of such goods from the port of importation to the domestic wholesale market, with such adjustment as may be deemed reasonable and necessary to be made for price fluctuation resulted from changes in nature of such goods and other (Paragraph 5 of the same Article)".

This provision applies to the goods the valuation for which cannot be made by other methods, without any discrimination owing to their grade, class or nature.

Question 3.

Is valuation, apart from the cases mentioned in 1 and 2, based on a definition of value which seeks to establish as a standard the actual value of the imported merchandise on which duty is to be assessed or of like imported merchandise? If so, indicate what provision is made for establishing this standard and furnish a copy of the legal provision containing the definition.

Yes.

The provisions of Paragraph 1, Article 4 of the Customs Tariff Law make it clear to adopt CIF value as a price for valuation, as mentioned in 2.

This is wholly consistent with the actual price provided for in Article 7 of GATT.

Question 4.

What is the time which is accepted in your legislation as the time of sale, or offer for sale, for valuation purposes?

It is the time when goods are exported, that is, when goods are loaded on vessels or aircrafts for the exportation from an exporting country to Japan.

Question 5.

What is the place accepted in your legislation as the place of sale, or offer for sale, for valuation purposes?

It is the main wholesale market of the goods in the exporting country.

Question 6.

State whether, and to what extent, valuations are based on:

- (a) the internal price of the goods in the market of the exporting country;
- (b) the export price in the exporting country; or
- (c) the landed price in the importing country.

The price used for valuation is the price under (c) which mainly depends upon the price under (a). However, the internal wholesale price is taken as the internal price as stated in 2 and 3.

Question 7.

Where the price depends upon quantity, is the price used for valuation uniformly that which relates to quantities comparable to the quantity to be valued? If not, please state what quantity basis is used.

The price in the exporting country of the import goods, upon which CIF value regarded as the price for valuation of such goods is based, is "the price of such goods or the goods of the same kind when sold in the ordinary wholesale quantity and in the ordinary course of trade in the exporting country at the time of exportation". (Paragraph 1, Article 4 of the Customs Tariff Law).

Question 8.

To what extent, and subject to what conditions, is the price at which the merchandise has been sold or is offered for sale, (i.e. the invoice value) accepted as the basis for valuation? Where invoice value is not so accepted as a basis (because, for example, the transaction does not take place under fully competitive conditions):

- (a) do you use, uniformly or as appropriate (state which), any of the following bases -
 - the invoice price subject to corrections,
 - the sale price of the imported product on the importing market, adjusted to take account of expenses and profits incurred after importation,
 - the cost of production of the imported product?
- (b) if not, how do you assess the value? (Give particulars of any such methods).

Valuation for customs duty shall, as a general rule, be based on the price of the imported goods described in the invoice. (Paragraph 2, Article 4 of the Customs Tariff Law). However, where neither invoice nor other document is produced to the Customs at the time of import declaration, where the statement in such document is not acceptable as true, or where there is reason to believe that these documents cannot be regarded as reliable, the value for customs duty shall be determined on the basis of such value for customs duty as has been determined pursuant to the invoice or any other document, if any, in respect of the goods of the same kind or similar goods recently arrived at the port of importation. (Paragraph 3 of the said Article).

When the value for customs duty cannot be determined even in the method mentioned above, the value for customs duty shall be taken to be the price of the goods arrived at the port of importation, calculated in accordance with investigations by the Customs of the price of the same kind or similar goods in the overseas market. (Paragraph 1 of the said Article).

In case there is a long period between the time of arrival of the goods at a port of importation and the import permit of such goods, and there arises so great fluctuation in their price during such period that it is found extremely improper to determine the value for customs duty on such goods pursuant to the invoice of such goods, the value for customs duty shall be determined on the basis of such value for customs duty as has been determined pursuant to the invoice or any other documents, if any, in respect of the goods of the same kind or similar goods recently arrived at the port of importation. (Paragraph 4 of the said Article).

Therefore, as a final means, when the value for customs duty cannot be determined in the preceding two methods, the value for customs duty shall be determined at the domestic wholesale price of the goods of the same kind or similar goods in Japan, minus the amount of customs duty and any other duties as well as charges which would be imposed or charged upon such goods, if imported into Japan, and ordinary expenses incidental to delivery of such goods from the port of importation to the domestic wholesale market, with such adjustment as may be deemed reasonable and necessary to be made for price fluctuation resulted from changes in nature of such goods and others. (Paragraph 5 of the said Article).

Question 9.

If your administrative or legal regulations provide for the use of alternative methods of valuation, state to what extent the customs officer or appraiser is free to choose between such alternatives, or is obliged to adopt that which gives the higher value, or is obliged to make use of them in accordance with prescribed rules.

Our administrative and legal regulation does not provide for the use of alternative methods of valuation, that is, as mentioned in theforesaid (8), the dutiable value of imported goods is, in principle, based on the

invoice of the said goods, and only if there is a special reason, other methods of valuation are used in steps under the provisions of Article 4 of the Customs Tariff Law.

Question 10.

Do you exclude from the value of imported goods the amount of internal taxes from which the imported product has been exempted in the exporting country? Do you limit this exclusion to specified taxes, (such as purchase tax, etc.), or do you grant it to any internal tax or charge from which exemption has in fact been granted by the exporting country?

The amount of internal excise taxes reduced, exempted, or refunded at the time of their exportation, if any, is excluded without limiting to any specified tax.

Question 11.

What is the system adopted by your Administration for the conversion of foreign currencies for valuation purposes?

Do you apply the official rate of exchange based on the par value recognized by the International Monetary Fund, or market rates? If your currency has no par value recognized by the Fund, or if various rates are applied in your country for the purchase of foreign exchange, what rate do you apply for valuation purposes? If the product is coming from a country applying multiple rates of exchange, do you always apply the official rate of exchange of that country as a basis for valuation, or do you apply different rates in certain cases, or do you apply other corrections?

Conversion of a price expressed in foreign currency into Japanese currency for valuation purposes is required to be made on the basis of the rate of foreign exchange established by the Minister of Finance at the date when dutiable goods are determined (usually, at the date of import declaration). (Paragraph 6 of Article 4 of the Customs Tariff Law).

Conversion of United States currency into Japanese currency is based on the par value recognized by the International Monetary Fund, and conversion of other designated currencies, that is to say, the currencies of the United Kingdom, Canada, and Switzerland, is based on the arbitrated rate of exchange established by the Minister of Finance.

Incidentally, it is added that in Japan, for the time being, no currency other than designated currencies enumerated above is authorized to be used, as settlement currency under the provisions of the Foreign Exchange and Foreign Trade Control Law.

Question 12.

What charges on imports, other than ordinary customs duties, are assessed on the value of imported goods? Do you apply the same method of valuation for the levy of such charges as for the levy of customs duties?

If so, in which cases? If not, what method does your Administration apply? Do you apply the same methods of valuation in the case of internal taxes or equivalent charges levied on imported goods?

In Japan, with respect to the goods provided for in the excise laws, the respective excise, other than ordinary customs duties, is assessed on the importation of such goods. With respect to the excise assessed ad valorem, the dutiable value of imported goods is the value at the time when they are delivered from bonded area (the value for customs duty plus the amount of the customs duty). Moreover, with respect to the specific excise, the basis of assessment is the quantity at the time when the imported goods are delivered from bonded area.

Question 13.

Has your export trade met with serious difficulties resulting from methods or practices adopted by other contracting parties for determining the value of imported products?

No.

