

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

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## Multilateral Trade Negotiations

### Group "Non-Tariff Measures"

#### CUSTOMS MATTERS

##### Background Note by the Secretariat

1. At its meeting on 4-7 March 1975 the Group agreed that "the secretariat should distribute background papers relating to the work of each Sub-Group in advance of the meetings" (MTN/NTM/1, paragraph 11).

2. This paper deals with:

	<u>Paragraphs</u>
A. Customs valuation	3-10
B. Import documentation - including consular formalities	11-23
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#### A. Customs valuation

##### Documentation on existing measures

3. As far as industrial products are concerned, Part 2, Section B of the Inventory of Non-Tariff Measures (MTN/3B/2 and Addenda) contains notifications and gives details on the type and method of application of notified customs valuation measures. It also summarizes the exchange of views which took place on the subject during the preparatory phase of the negotiations.

4. A few notifications of valuation problems relating to agricultural products are contained in the Inventory of Various Non-Tariff Barriers - MTN/3E/DOC/10 and Addenda.

##### Background notes

5. A background note by the GATT secretariat entitled "Trade Barriers Arising in the Field of Customs Valuation" (COM.TD/W/195) has been issued at the request of developing countries. It briefly reviews, inter alia, the GATT provisions relating

to valuation procedures and outlines the main problems arising in this area. It discusses the problems of special interest to developing countries in this field. Attention is also drawn to paragraphs 51-59 of the secretariat note "Non-Tariff Measures Affecting Trade of Developing Countries" (MTN/3B/23) which deals more briefly with the work carried out in the GATT on customs valuation.

#### Proposed solution

6. In 1970, Group 2 of the Committee on Trade in Industrial Products examined the problems related to customs valuation. The main approaches to these problems are summarized in document L/3496, pages 9-11, and a more detailed account of the discussion appears on pages 32-40 of that document.

7. Group 2 worked out ad referendum texts containing draft principles and draft interpretative notes for the uniform application and interpretation of the provisions of Article VII of the General Agreement. These texts were referred to national administrations "for careful examination and for consideration of changes which might be implied in accepting them". The texts and the record of statements made by the Chairman of the Group and certain delegations are reproduced in Appendix 1 to the present document.

#### Relevant work of other international organizations

8. The Customs Co-operation Council supervises the application of the Convention on the Valuation of Goods for Customs Purposes (of which Annex I sets out the Definition of Value and Annex II sets out the Interpretative Notes) drawn up in 1950. In addition, the Valuation Committee of the Customs Co-operation Council has prepared an extensive series of Explanatory Notes for use as a guide to the application of the Brussels Definition of Value. The Committee also provides a forum for the discussion of problems related to valuation.

9. Since the ad referendum texts were worked out, the Customs Co-operation Council has adopted (on 11 June 1974) a Recommendation which amends the Convention on the Valuation of Goods for Customs Purposes so as to make it possible for countries which operate a valuation system based on f.o.b. values to accede to the Convention and apply the Brussels Definition (which is based on the c.i.f. values) on an f.o.b. basis if they are able to comply with the Convention in all respects other than the inclusion in the dutiable value of "costs, charges and expenses incidental to the delivery of the goods from the port or place of exportation to the port or place of introduction" into the country of importation. The amendment will come into force when accepted by all contracting parties to the Convention.

Main issues

10. The previous discussions, including the discussion held at the meeting of the Group "Non-Tariff Measures" on 4-7 March 1975, have related inter alia, to the following main issues:

- (a) What is the most appropriate way to deal with problems arising in the field of customs valuation: an overall solution through the elaboration of general rules or a case-by-case approach or a combination of both?
- (b) If the overall solution is the appropriate way:
  - (i) Should the ad referendum solution worked out in 1971 be the appropriate basis for the further work on valuation? If not, what would be the appropriate way to proceed in the negotiations?
  - (ii) Could a solution be sought through the acceptance of the Brussels Convention on the Valuation, bearing in mind the recent decision of the Customs Cooperation Council on its application on an f.o.b. basis?
- (c) Would a solution be legally binding or would it be a set of guidelines? If it is to be legally binding, what would be its relationship to the General Agreement?
- (d) On what basis should developing countries participate in the negotiations in terms of the advantages they might obtain and the contribution they might make?

B. Import documentation including consular formalities

Documentation on existing measures and problems

11. Many of the trade problems in this field have been identified in Section D of Part 2 of the Inventory of Non-Tariff Measures (MTN/3B/2 and Addenda) in which notifications may be found falling under the heading of consular formalities and documentation.

12. Summaries of discussions held in Group 3(b) in March and May 1974 on this subject may be found in MTN/3B/11 and MTN/3 (paragraph 57-65).

13. The following problems were mentioned in this field:

- (a) Some documents are superfluous (in particular customs invoices and some certificates of origin were mentioned in this context).
- (b) Some necessary documents contained exaggerated demands for information and were unnecessarily complex.
- (c) Penalties were sometimes imposed for minor errors.

These problems create inconveniences and delays for traders and increase their costs.

14. A specific problem is that of consular formalities and fees. One part of the problem is the claim that in many cases consular fees are far in excess of the cost of services rendered, and that this practice violates Article VIII of the GATT. Another complaint which has been made relates to the excessive penalties for errors connected with consular formalities. Lastly, it has been claimed that consular formalities are unnecessary and create a needless obstacle to trade.

#### Background notes

15. A number of background notes have been issued by the secretariat. In particular, the notes "Import Documentation including Consular Formalities (COM.IND/W/79 and Add.1) give details of the relevant GATT provisions and outline the history of the treatment of this subject in the GATT. Additional information is contained in the secretariat note MTN/3B/8. A further note (MTN/3B/13) deals with "information required by countries for customs entry purposes". Further general background information is contained in paragraphs 60-74 of the secretariat's note entitled "Non-Tariff Measures affecting Trade of Developing Countries" (MTN/3B/23).

#### Proposed solutions

16. Various possible approaches have been suggested (MTN/3, paragraph 58); one would be the establishment of guidelines or sets of principles; a second one would be the encouragement of accelerated work on documentation in other international organizations such as the Customs Co-operation Council and the Economic Commission for Europe; a third one would be the holding of bilateral negotiations on particular measures existing in this field. It has also been suggested that these approaches were not mutually exclusive and might be combined. One specific proposal which has been put forward is that special declarations concerning the correctness of the invoice and the origin of the goods should be required only in

cases where they were strictly indispensable and in such cases the text of these declarations should be harmonized. The precise text of this proposal is reproduced in Appendix 2.

17. In regard to consular formalities a proposal for an interpretative note to Article VIII has been made which would state that consular formalities be abolished by a date to be agreed upon. This proposal is reproduced in Appendix 3.

#### Relevant work of other international organizations

18. The main international organizations dealing with this problem are the Customs Co-operation Council and the Economic Commission for Europe. Throughout the preparatory phase of the negotiations, the secretariat has kept participating countries informed of the progress of the work in these organizations. Particular reference is made to documents: COM.IND/W/15, MTN/3B/8 (paragraphs 8-9), MTN/3B/13 (paragraphs 5-9) and MTN/3B/14. The following four paragraphs describe the present situation in regard to the work of the above-mentioned organizations.

19. Customs Co-operation Council: The particular aspect of the work of this organization which relates to the negotiations conducted in this Group is that connected with the International Convention on the Simplification and Harmonization of Customs Procedures (adopted by the CCC in May 1973) and related annexes.<sup>1</sup> Since beginning work on this project the Customs Co-operation Council has adopted nine annexes to the Convention. However, only the Convention itself and two of the annexes (those relating to customs warehouses and drawback) have been ratified and have actually entered into force.

20. The Permanent Technical Committee of the Customs Co-operation Council has recently completed work on the draft Annex B.1 "Clearance for Home Use" and has referred it to the Council for final approval. There are two points in this draft annex which are of particular interest to the Group. Standard 11 provides, inter alia, that "...the competent authorities shall require the Goods Declaration to provide only such particulars as are deemed necessary for the assessment and collection of import duties and taxes...". Note 1 to this Standard contains a

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<sup>1</sup>A background note describing this Convention and its annexes has been issued by the ECE (Trade/WP.4/INF.25).

list of particulars which customs authorities generally require for the Goods Declaration for Home Use. This note is reproduced in Appendix 4.

21. Attention is also drawn to Annex D.2 to the Convention concerning Documentary Evidence of Origin, the aim of which is to restrict the use of documentary evidence of origin by specifying cases when certificates of origin may be required and cases when they should not be required.

22. Economic Commission for Europe: One aspect of the work of this organization which has particular relevance to the Multilateral Trade Negotiations is the proposal to establish an Aligned Commercial Invoice. The draft proposal for such an invoice which was submitted to the September 1974 meeting of the ECE Group of Experts on Data Requirements and Documentation is reproduced in Appendix 5. At the last meeting of the Group of Experts in February of this year it was decided to pursue the work on the Aligned Commercial Invoice without necessarily aiming to make it an all-purpose form which might, for example, replace customs invoices or statistical and administrative forms. Nevertheless, it was thought that if the detailed commercial invoices were used, administrative forms and perhaps statistical forms should not be necessary. The guiding principles<sup>1</sup> for the on-going work on the invoice are its alignment on the ECE layout key, flexibility in the form to fulfil national requirements and its adaptation to the requirements imposed by automatic data processing. The Group has made further progress on the selection of the main headings to be included in the form. This work will be pursued at the June meeting of the Expert Group with a view to having a final document ready by the end of September for submission to the Working Party which will meet on 22-26 September.

#### Main issues

23. The previous discussions, including the discussion held at the meeting of the Group "Non-Tariff Measures" on 4-7 March 1975, have related, inter alia, to the following main issues:

- (a) Should an aim of the negotiations be to achieve binding commitments that participating countries adhere to the CCC International Convention on the Simplification and Harmonization of Customs Procedures together with the relevant annexes and/or to undertake to implement any ECE recommendation regarding an aligned commercial invoice?

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<sup>1</sup>For further particulars of the layout key, see ECE document ME/TTD/73/D.1 containing Recommendations adopted by the Working Party on Facilitation of International Trade Procedures, June 1973.

- (b) Should an aim of the negotiations - independently of the progress of the work in other organizations - be to draw up:
  - (i) a binding code, or
  - (ii) a set of guidelines or principles, or
  - (iii) interpretative notes to the relevant GATT provisions?
- (c) To what extent would an internationally accepted standardized commercial invoice and customs entry form help to solve the problems in this area, in particular the problems of customs invoices?
- (d)
  - (i) Should the aim of the negotiations be to abolish the consular formalities and if so how would it be achieved?
  - (ii) Alternatively, should consular formalities be permitted subject to greater international regulation?
- (e) On what basis should developing countries participate in the negotiations in terms of the advantages they might obtain and the contribution they might make?

C. Tariff nomenclature

Provisions of the General Agreement and history

24. Since no background note has been issued by the secretariat on tariff nomenclature, the following paragraphs give some information on the provisions of the GATT and its history.

25. The General Agreement contains only a few references to customs classification matters. The main obligation is contained in Article X, which provides, inter alia, for the publication of laws, regulations, judicial decisions and administrative rulings of general application pertaining to classification of products for customs purposes in advance of enforcement.

26. Article II:5 provides for negotiations with a view to compensatory adjustment where there is agreement between two contracting parties that a concession has been impaired but where a court or similar authority has ruled that the product involved cannot be classified under that country's tariff laws so as to permit the treatment contemplated.

27. At the fifth session (GATT/CP.5/SR.3), a letter was presented to the CONTRACTING PARTIES from the European Customs Union Study Group<sup>1</sup> drawing attention to possible minor adjustments of tariff schedules consequent upon the eventual adherence of contracting parties to the Brussels Convention on Nomenclature for the Classification of Goods in Customs Tariffs. The outcome of the discussions during the fifth session was that any adjustment of the schedules should be submitted to the normal rectification procedure allowing contracting parties a suitable period of time for scrutiny which is to be determined by the Director-General. If there were objections normal GATT procedure would be followed and negotiations under Article XXVIII would have to be held for the adjustments. The procedure to be followed was that a government revising its nomenclature would furnish contracting parties with copies of the revised nomenclature of its Schedule. In the event of no objections being lodged, the changes in the Schedule would be regarded as having the approval of the CONTRACTING PARTIES.

28. On 19 November 1968, the CONTRACTING PARTIES adopted a Decision (BISD 16S/16) establishing a procedure for the certification of amendments to the Schedules annexed to the Agreement which record rectifications of a purely formal character or modifications resulting from action taken under various Articles of GATT. The Decision provides that changes in the authentic texts of Schedules annexed to the General Agreement reflect modifications which have entered into force or rectifications of a purely formal character shall be made by Certifications, draft copies of which are being made available by the Director-General to all contracting parties; it further provides that the draft shall become a Certification provided that no objection has been raised by a contracting party within sixty days.

29. Three Certifications have been issued since the Decision (12 July 1969, 9 January and 23 October 1974).

#### Documentation on existing measures

30. Problems arising from customs classification have been notified in the Inventory of Non-Tariff Measures (MTN/3B/2, Section C, Notifications 172-176). Some of the main problems which have been notified concern the fact that some tariff nomenclatures do not conform to the Brussels Tariff Nomenclature, the excessive complexity of some nomenclatures and the uncertainties connected with their operation, e.g. problems relating to classification or created by lack of explanatory notes.

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<sup>1</sup>Which later became the Customs Cooperation Council (CCC).



### Proposed solutions

31. A number of proposals were made during the preparatory phase of the negotiations. Details of these proposed solutions may be found in document L/34 pages 41-43.

32. These proposals can be summarized as follows:

- (a) two major trading countries not at present applying the Brussels Tariff Nomenclature should adopt it;
- (b) a number of other countries should further clarify and simplify their tariff nomenclatures;
- (c) governments which have not yet done so should prepare systematic explanatory notes to their nomenclatures, or at least to those sections where there is an obvious need for guidance to ensure correct classifications. Priority should be given to the more important trade items;
- (d) only essential information should be requested by customs authorities for classification purposes;
- (e) formalities to be complied with by exporters wishing to obtain information from customs authorities should be reduced to a minimum, and replies to requests for classification of goods before they were imported should be rapid and incontrovertible;
- (f) an impartial body should rapidly settle classification disputes;
- (g) a concordance between BTN and other nomenclatures should be established and kept up to date.

### Relevant work of other international organizations

33. The Nomenclature Committee of the Customs Co-operation Council is revising the existing Brussels Tariff Nomenclature (BTN). The purpose of this work on nomenclature is to bring the BTN up to date by means of the deletion of those headings which have become obsolete, and by the enlargement of those sections of the nomenclature which have become relatively more important in world production and trade.

Main issues

34. The previous discussions, including the discussion held at the meeting of the Group "Non-Tariff Measures" on 4-7 March 1975, have related, inter alia, to the following main issues:

- (a) Should the negotiations aim at the more generalized acceptance of the Brussels Convention on Nomenclature for the Classification of Goods in Customs Tariffs and/or at the generalized de facto use of the BTN?
- (b) If not, how should the problems in this area best be tackled?
- (c) On what basis should developing countries participate in the negotiations in terms of the advantages they might obtain and the contribution they might make?

D. Customs procedures

Provisions of the General Agreement

35. The General Agreement contains only a few references to customs procedures. The most relevant are those of Article VIII. Paragraph 1(c) recognizes the need for "minimizing the incidence and complexity of import and export formalities ...". Paragraph 2 stipulates that "a contracting party shall, upon the request by other contracting parties or by the CONTRACTING PARTIES review its law and regulations in the light of the provisions of this Article". There is also the provision in paragraph 3 that "no contracting party shall impose substantial penalties for minor breaches of customs regulations or procedural requirements".

36. Attention is also drawn to Article X which provides for publication and administration of trade regulations in advance of enforcement.

Documentation on existing measures

37. Problems in this field have been identified in Section G of Part 2 of the Inventory of Non-Tariff Measures (MTN/3B/2 and Addenda). These refer to administrative problems such as vexatious customs clearance formalities and procedures, delays in customs services and limited entry points for goods from certain sources or for specified products. The general comments in the Inventory refer also to delays in settlement of disputes between customs' administrations and importers.

38. At the first meeting of the Group "Non-Tariff Measures" specific reference was made to delays in customs clearance and excessive penalties for customs offences committed in error and in good faith. The latter problem has been dealt with under import documentation (see paragraph 13 and paragraph 14 above).

Relevant work of other international organizations

39. The work of the Customs Co-operation Council in regard to the Convention on the Simplification and Harmonization of Customs Procedures has been summarized in paragraph 19 above. Annexes to this Convention deal with specific customs procedures.

Main issues

40. The following appear to be among the main issues:

- (a) Which particular problems in this area should be dealt with in the negotiations?
- (b) What approach should be used in this area? Should the problems be dealt with via general rules or should they be dealt with case by case?
- (c) Should an aim of the negotiations be to achieve binding commitments that participating countries adhere to the CCC International Convention on the Simplification and Harmonization of Customs Procedures together with the relevant annexes?
- (d) On what basis should developing countries participate in the negotiations in terms of the advantages they might obtain and the contribution they might make?

Appendix 1<sup>1</sup>

GROUP 2 ON VALUATION

Report by the Chairman

1. Pursuant to its mandate to elaborate, on an ad referendum basis, concrete solutions to the problems in the field of customs valuation which had been notified in the Inventory of Non-Tariff Barriers, Group 2 on Valuation has asked me to submit to the Committee two drafts, one on principles for valuation and one on understandings with respect to application of Article VII which is tentatively headed "Interpretative Notes". These texts are circulated to contracting parties with my present statement as a covering explanation (see Annex 1).
2. The Group's approach has in general been to seek to interpret the provisions of Article VII of the General Agreement and to elaborate rules for their application in order to provide greater uniformity and certainty in their implementation. This approach is recognized as being only one among several possible approaches. Work has not been directed towards adoption of one common system of valuation.
3. The Group has reached a fair measure of agreement on these two texts which, if accepted and implemented, would solve the specific problems notified in the Inventory. The Group has recognized that the time has come for reflection and decisions on whether, and under what conditions, the proposed drafts are acceptable. The Group felt that these decisions might take considerably more time for some than for others as they involved changes in legislation for some.
4. The ultimate choice of an instrument or instruments to embody the material which the Group has developed has received only preliminary attention, so that not much significance should be attached to the headings "Draft Principles" and "Draft Interpretative Notes". Likewise, the eventual status of the results from the legal point of view and the relationship to existing obligations has not been considered in depth. It appeared, however, that such questions might more usefully be considered after some general consensus has been reached to proceed to acceptance.
5. The drafts are not fully agreed within the Group, as notes to the text will show, even on the basis on which the Group has worked, that is, on the understanding that neither the Group as a whole nor any of its members necessarily accepts the text. In general the views which have earlier been expressed by members of the Group, in the report annexed to L/3496 and elsewhere, continue to be held. However, the views of some members are presented separately. (See Annex 2)
6. The Group considered that, in view of the progress made on the two texts, it would now be appropriate to refer them to their administrations for careful examination and for consideration of changes which might be implied in accepting them.

<sup>1</sup>Reproduced from COM.IND/W/64

ANNEX 1

Draft Principles and Draft Interpretative Notes

I. PRINCIPLES

1. Valuation systems should be neutral in their effect and in no case be used as a disguised means of providing additional protection by artificially increasing the value to which the rate of duty is to be applied.
2. Valuation systems should not be used to combat dumping.
3. Valuation systems should protect trade against unfair competition arising from undervaluation.
4. Valuation systems should be of general application without distinction as between sources of supply.
5. Dutiable value should be based on equitable and simple criteria which do not conflict with commercial practice.
6. Valuation systems should keep formalities to a minimum and valuation should be based to the greatest possible degree on commercial documents.
7. Valuation systems should not prevent the quick clearance of goods.
8. The legal and administrative provisions concerning customs valuation should be accessible to the general public and be sufficiently clear and precise to enable traders to estimate, in advance, with a reasonable degree of certainty, the value of their goods for customs purposes.
9. Valuation systems and practices should take into account the need to safeguard business secrets.

II. INTERPRETATIVE NOTES

1. The value for customs purposes of imported merchandise is the "actual value", which is understood to be the price at which, at a time and place determined by the legislation of the country of importation, the merchandise imported or like merchandise is sold or is offered for sale, or would be sold to that country in the ordinary course of trade under fully competitive conditions.

For countries which base their valuation on a c.i.f. price, that price includes the costs of delivery to the place of introduction into the country of importation.

Four countries which do not base their valuation on a c.i.f. price the price to be taken into consideration includes the costs of delivery of the merchandise to the place defined in the legislation of the country of importation (e.g. ex factory, at railhead, at the dock, free on board ship or delivered to aircraft).

2. For the purpose of Article VII paragraph 2 (b), "like merchandise" is understood to mean a product of the same origin and similar in all respects to the product imported or, in the absence of such a product, another product of the same origin as the product imported, whose characteristics closely resemble those of the product imported (in particular as regards condition, type, quality, etc.).

3. The price of "like merchandise" should be used as a basis for customs valuation only in cases where the "actual value" of the merchandise cannot be determined on the basis of the price paid or payable or of the price made by the vendor to other purchasers in the importing country for identical merchandise.

4. Value should be determined in accordance with the foregoing Interpretative Notes. However, in cases where actual value cannot be ascertained in this fashion, Article VII paragraph 2 (c) is applicable. The "nearest ascertainable equivalent" within the meaning of that sub-paragraph should [normally]<sup>1</sup> be based on information available on the importing market, such as:

- the price of merchandise conforming to the definition of "like merchandise" given in Interpretative Note 2 above in all respects but which originates in a country other than the country of origin of the merchandise to be valued, provided that in that other country the conditions of production (including wage rates) are comparable to those in the country of origin of the merchandise to be valued, and prices are established in fully competitive conditions;

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<sup>1</sup>Most countries could accept this text only with the word "normally" omitted and with the bracketed addition to the third indented paragraph included. One country could only accept the text with the word "normally" included.

- if the imported merchandise is sold or resold, the price made on the first sale or resale in fully competitive conditions, such price being adjusted to take account of the various elements that should not be included in the customs value as defined in Interpretative Note 1; or
- any other element that can constitute a valid basis for determining the value for customs purposes (for example, rental during the normal lifetime of the merchandise, value shown in the balance sheet as an asset and information provided by the exporter<sup>7</sup>).

5. If there is a difference between the price paid or payable for the imported merchandise and a value obtained by other methods, that should not in itself constitute a reason for rejecting the price paid or payable. There may be acceptable reasons for the difference; e.g. technical developments in the exporting country, different distribution methods, etc.

6. With regard to the elements of level, quantity and time, contracting parties should respect economic reality and commercial practice and, inter alia

- accept the usual quantity rebates even in the case of fulfilment of a contract in successive consignments;
- take into account the time required for executing the contract in the branch of trade in question.

7. Notes 1-6 above, together with Article VII and its existing Interpretative Notes, describe the calculation of actual value and indicate other acceptable methods of valuation to calculate the nearest ascertainable equivalent to actual value. The value of imported merchandise for customs purposes should in no case be based on the price of goods of national origin, nor on the price of goods in the domestic market of the exporting country, nor, in accordance with Article VII, paragraph 2(a) on any arbitrary or fictitious values, such as any system of valuation based on the concept of minimum value.<sup>1</sup>

8. The value for customs purposes of any imported product should not include the amount of any customs duty applicable within the country of origin or export from which the imported product has been exempted or has been or will be relieved by means of refund.

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<sup>1</sup>The representative of Argentina could not accept this formulation which appeared to classify a system based on minimum values, alone among all named systems, as using "arbitrary or fictitious values".

9. The importer should be made responsible for the accuracy of his customs valuation declaration.
10. On the request of an importer or an exporter the customs administration shall explain in advance the general principles and practices for the calculation of value for customs purposes [so that traders can estimate with a reasonable degree of certainty the value of their goods for customs purposes].
11. The customs administration shall explain to the importer or exporter, on his request, how the customs value has been calculated for his goods, particularly in cases where the invoice price is not acceptable, provided the confidentiality of business secrets is safeguarded.
- 11 bis. On the request of the person declaring the goods the customs administration shall explain how the value for customs purposes has been calculated for his goods.
12. Consistent with Article X:3(b), each contracting party shall provide a procedure for appeal to an independent and impartial administrative and/or judicial body against valuation decisions of its customs authorities.



ANNEX 2

Statements of Certain Delegations

The European Communities, Japan, the Nordic countries, and the United Kingdom

The great majority of countries are of the opinion that the adoption by all contracting parties of the principles and Interpretative Notes which are the subject of this document would be a major advance towards the elimination of obstacles arising out of customs valuation. They are nevertheless, convinced that only a full harmonization of valuation systems on the basis of one single concept can make a substantial contribution to the expansion of international trade in a climate of stability and certainty. Taking into account the fact that an increasing number of countries have already taken this path by acceding to the Convention on the Valuation of Goods for Customs Purposes (Brussels, 15 December 1950) or at least by acting consistently with the concepts of the Convention, the best way of achieving such harmonization would seem to be for all contracting parties to accede to one single convention, thereby applying one single customs valuation concept.

Sweden

The Swedish delegation had raised certain problems as regards the use of uplifts but the intention now was to pursue this matter further in the CCC.

Canada

The Canadian delegation does not consider the draft interpretative notes which have been discussed in the Group to be either the simplest or the most effective solution to customs valuation problems. The Canadian delegation therefore emphasizes the Group's understanding that the work of the Group does not involve any commitment on the part of any country to accept or implement the solutions elaborated in the Group, that the results of the Group's work do not preclude the possibility for other solutions and that no delegation is bound to accept any particular solution. It is also the Canadian view that the report should state that some countries do not consider harmonization of valuation systems to be either necessary or desirable and that these countries therefore feel that interpretative notes of the nature proposed are both inappropriate and unnecessary.

United States

Whether and under what conditions the texts elaborated by the Group are acceptable would depend, for some countries, on the prospects for obtaining some balance of advantage from the results of work of the other Groups now preparing concrete solutions on non-tariff barriers, or possibly from work yet to be undertaken on additional non-tariff barriers or on other aspects of the GATT work programme.

India

It should be understood that contracting parties having valuation systems requiring them to take into account prices of the same or like product in the markets of exporting countries would be obliged to modify them to bring them into conformity with paragraph 7 of the Interpretative Notes. It was suggested that pending modification of their valuation systems they should instead of current domestic value take into account (a) invoice prices of the exporting country of like merchandise to its major exporting country; or (b) invoice prices generally obtained by the exporting country for like merchandise for exports to other third country markets.

Pakistan

The representative of Pakistan drew attention to the fact that views along the lines of the above statement had been expressed by Pakistan at various times during the consideration of valuation by Group 2.

Appendix 2<sup>1</sup>

Draft Proposal Referred to in Paragraph 2

The CONTRACTING PARTIES recommend that:

- (a) Special declarations to be inserted in the commercial invoice concerning the correctness of the invoice and the origin of the goods should be required only in cases where they are strictly indispensable.
- (b) In order to facilitate the use of such declaration this should read:  
"We certify this invoice to be true and correct" - and if necessary a short statement could be included reading "and that the goods are of ..... origin".

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<sup>1</sup>Reproduced from MTN/3B/11 p.4.

Appendix 3<sup>1</sup>

Draft Interpretative Note to Article VIII of the General Agreement  
Referred to in Paragraph 9

ad. Article VIII

Consistent with paragraph one and the recommendations of the CONTRACTING PARTIES on consular formalities of 1952, 1957 and 1962, consular formalities, such as requirements for presentation of commercial documents to consular officers and fees associated therewith, are to be abolished no later than except where necessary to administer measures applied under Articles XX and XXI.

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<sup>1</sup>Reproduced from MTN/3B/11 p.5

Appendix 4<sup>1</sup>

EXTRACT FROM THE DRAFT ANNEX CONCERNING CLEARANCE FOR HOME USE

(a) Goods declaration form and contents

Forms for the Goods declaration for home use shall conform to the official model laid down by the competent authorities.

The competent authorities shall require the Goods declaration to provide only such particulars as are deemed necessary for the assessment and collection of import duties and taxes, the compilation of statistics and the application of the other laws and regulations which the Customs are responsible for enforcing.

Notes

1. The Customs authorities generally require:

(a) Particulars relating to persons

- name and address of declarant
- name and address of importer
- name and address of consignor

(b) Particulars relating to transport

- mode of transport
- identification of means of transport

(c) Particulars relating to the goods

- country whence consigned and country of origin
- description of the packages (number, nature, marks and numbers, weight)
- tariff description of the goods

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<sup>1</sup> Reproduced from the Customs Co-operation Council document 21.080 (Appendix I)

- (d) Particulars for the assessment of import duties and taxes (for each description of goods) --
- tariff heading
  - rates of import duties and taxes
  - gross weight, net weight or other quantity
  - dutiable value
- (e) Other particulars
- statistical item number applicable to each description of goods
  - area whence the goods were consigned or reference to applicable legal provisions (where preferential treatment is claimed)
  - reference to documents submitted in support of the Goods declaration
- (f) Place, date and signature of the declarant

Appendix 5<sup>1</sup>

ECE Group of Experts on Data Requirements and Documentation

DRAFT PROPOSAL FOR AN ALIGNED COMMERCIAL INVOICE

suitable also for administrative purposes

1. At the sixth session of the Group of Experts on Data Requirements and Documentation, the Trade Facilitation Adviser was requested to produce a draft for an aligned commercial invoice to be discussed at the next session of the Group (TRADE/WP.4/GE.2/12, paragraph 33).
2. In addition to its commercial function, such an invoice ought to be suitable to meet the administrative requirements for export and, to the extent possible, for the import of goods. Since national regulations often vary from one country to another and the exporter who issues the invoice is not always in a position to know what information is required, it is unlikely that he would be able to provide all particulars requested for the import procedure, nor could a form be designed which would be acceptable in lieu of various entry forms adapted to national statutory needs for customs clearance etc.
3. The proposed draft therefore contains such basic data (marked by an asterisk) which in any case are indispensable for assessing the customs value of the goods concerned or for other administrative purposes. Whenever such an invoice is presented, these data should not have to be asked for on other import documents.
4. In addition to this basic information, the draft presents some suggestions as regards a possible presentation of some other data elements which could be provided by the exporter. The bottom part of it gives an example of a presentation of data related to the different items appearing on the invoice.
5. The draft takes into account the comprehensive study on a unique administrative document carried out by the Belgian delegation (TRADE/WP.4/GE.2/R.4 and R.5).

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<sup>1</sup>Reproduced from MTN/3B/14 pages 2-4.

INVOICE

Seller (name and address)* 1)		Invoice date*		Invoice No.
		Seller's order date		Order No.
		Buyer's order date		Order No.
Consignee*		Buyer (if other than consignee)*		
		Country of origin*		
Transport information 2)		Terms of delivery* 3)		
		Terms of payment*		
Marks and numbers of pkgs.*	No. & kind of pkgs., description of goods*	Commodity No. 4)	Net quantity*5)	Value*6)
			Gross weight kg*	Measure- ment
Specification of commodities: Article No., Article, Quantity delivered, Unit price etc*7)				Amount*8)
9.		Included above	Not incl. above	
Packing				
Insurance				
Freight				
Other costs (specify)				
Total invoice amount				

10.

It is hereby certified that this invoice shows the actual value of the goods described, that no other invoice has been or will be issued and that all particulars are true and correct



EXPLANATORY NOTES

1. Seller (name and address) Normally, seller's name and address will be printed on individualized company forms with logotype etc.
2. Transport information Information should be given on mode and means of transport used and port of discharge, place of destination or other relevant information.
3. Terms of delivery These should be indicated either by reference to INCOTERMS or by an accurate description of the applicable terms.
4. Commodity No. Whenever possible a commodity number should be indicated, preferably a number according to the Brussels Tariff Nomenclature.
5. Net quantity Net quantity should be given in kg.net or in such other quantity that is prescribed for the commodity in question, if known (litre, number of pieces, etc.)
6. Value Value in this column should be shown for statistical or transport purposes only, indicating currency, and whether f.o.b. or c.i.f.
7. Specification of commodities The detailed layout of this area is left to the discretion of the seller, depending on the kind of commodity, etc. For certain kinds of commodity it can be combined with the goods description above; the distribution of space vertically can be adjusted as required. The specification should be detailed enough to identify various articles in the consignment. their unit price, quantity rebates and all other particulars required to control the computation of the invoice amounts quoted.
8. Amounts This column would show the total invoice amount for every item, indicating currency, etc.
9. Total invoice amount If the terms of delivery are c.i.f., the sum of the amounts will become the total invoice amount, without any additions. In these cases costs of packing, insurance, freight can be specified in the column "include above". If delivery terms are f.o.b., these costs will have to be specified under the Amount column and added up and will result in a Total invoice amount c.i.f.
10. Certification If space for specification, etc. is insufficient, this legend could be moved towards the left and the cost specification etc. lowered.