

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Multilateral Trade Negotiations

Group "Non-Tariff Measures"

Sub-Group "Customs Matters"

CUSTOMS VALUATION

This document is circulated at the request of several developing countries which feel that there would be serious prejudice to the interests of such countries unless the Agreement on Customs Valuation that may be finally adopted contains special provisions to meet the trade, financial and development needs of such countries.

In the draft Agreement on Customs Valuation the following amendments shall be made:

I. Paragraphs 2(b) and 2(c) of Article 1 shall be so amended that the tests provided for therein shall be available to both related and non-related persons.

II. The following shall be substituted for the existing Part III - Special and Differential Treatment:

"PART III - SPECIAL AND DIFFERENTIAL TREATMENT"

Article 21

1. Developing countries party to this Agreement (referred to in this Agreement as "developing parties") may delay application of its provisions for a period of ten years from the date of entry into force of this Agreement. Developing parties who choose to delay application of this Agreement shall notify the Director-General to the CONTRACTING PARTIES to the GATT accordingly.

2. Developed countries party to this Agreement (referred to in this Agreement as "developed parties") shall furnish, on mutually agreed terms, technical assistance to developing parties that so request. On this basis developed parties shall draw up programmes of technical assistance which may include, inter alia, training of personnel, assistance in preparing implementation measures, access to sources of information regarding customs valuation methodology, and advice on the application of the provisions of this Agreement.

Article 22

Developing parties, in framing their national legislation, may provide as if the provisions of paragraph 2(a) of Article 1 stood modified by inserting the words "the importer demonstrates that" between the words "provided that" and the words "the relationship did not influence the price."

Article 23

Developing parties, in framing their national legislation, may provide that the options available to the importer to have the application of Articles 5 and 6 reversed, may be exercised only if the customs so agree.

Article 24

Developing parties, in framing their national legislation, may provide for the application of sub-paragraph (b) of paragraph 1 of Article 5 on the basis of the unit price at which the imported goods or identical or similar goods are sold in the greatest aggregate quantity at the earliest date after the importation of the goods being valued but before the expiration of ninety days after such importation.

Article 25

Developing parties, in framing their national legislation, may provide for the application of paragraph 2 of Article 5, regardless of whether or not the importer so requests.

Article 26

Developing parties, in framing their national legislation, may provide for the inclusion in the customs value, in whole or in part, of the value of any additional consideration not specified in paragraph 1 of Article 8, which the buyer is obliged to discharge himself or to require others to discharge as a condition of the sale.

Article 27

Notwithstanding anything contained in paragraph 4 of Article 8, developing parties, in framing their national legislation, may provide for the inclusion in the customs value, in whole or in part, of any price reduction which is not freely available to any other buyer on the sale of such goods for export to the country of importation in the same quantities and at the same level.

Article 28

Developing parties, in framing their national legislation, may provide that the provisions of paragraph 5 of Article 15 will apply as if the words "if they fall within the criteria of paragraph 4 of this Article" did not exist at the end of the said paragraph.

Article 29

In respect of minimum customs values any developing party may apply for special derogation at the time of its accession to this Agreement and the terms and conditions of the accession of any developing party that so applies shall be deemed to be subject to such derogation if agreed to by the other parties to this Agreement.

Article 30

In the event of their being a conflict or incompatibility between any of the provisions of this Part on the one hand and of the other Parts or of the interpretative notes or of the General Commentary on the other hand, the provisions of this Part shall have precedence and those of the other Parts or of the interpretative notes or of the General Commentary shall be construed as having, to the extent of the said conflict or incompatibility, no effect or, as the case may be, modified effect in respect of their application to developing parties.

Article 31

Developing parties shall, regardless of the period of derogation provided for in Article 21 above, or of the nature of derogation provided for in the other Articles of this Part, have full rights of vote wherever a provision exists in this Agreement for voting on any matter."

III. In Part IV - Final Provisions - in the Article which appears under the heading "Review" and is presently numbered 26, add the following words at the end of the first sentence:

"and the trade, financial and development needs of the developing parties".