

MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND

RESTRICTED

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Special Distribution

Group of Negotiations on Goods (GATT)

Negotiating Group on MTN
Agreements and Arrangements

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII
(CUSTOMS VALUATION CODE)

The attached:

- Proposed Decision Regarding Cases Where Customs Administrations Have Reasons To Doubt The Truth Or Accuracy Of The Declared Value; and
- statement that would be made by the Chairman of the Negotiating Group at its next meeting on: (i) valuation of goods on the basis of officially established minimum values, and (ii) possible problems related to the valuation of importations into their countries by sole agents, sole distributors and sole concessionaires;

have been agreed on an ad-referendum basis at the informal meeting at the level of customs experts held on 15-17 October 1990.

Proposed Decision Regarding Cases Where Customs
Administrations Have Reasons To Doubt The Truth
Or Accuracy Of The Declared Value

Reaffirming that the transaction value is the primary basis of valuation under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the Agreement);

Recognizing that the Customs Administration may have to address cases where it has reason to doubt the truth or accuracy of the particulars or of documents produced by traders in support of a declared value;

Emphasizing that in so doing the Customs Administration should not prejudice the legitimate commercial interests of traders;

Taking into account Article 17 of the Agreement, paragraph 7 of the Protocol to the Agreement, and the relevant decisions of the Technical Committee on Customs Valuation;

The Committee on Customs Valuation decides as follows:

1. When a declaration has been presented and where the Customs Administration has reason to doubt the truth or accuracy of the particulars or of documents produced in support of this declaration, the Customs Administration may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of Article 8. If, after receiving further information, or in the absence of a response, Customs still has reasonable doubts about the truth or accuracy of the declared value, it may, bearing in mind the provisions of Article 11, be deemed that the customs value of the imported goods cannot be determined under the provisions of Article 1. Before taking a final decision, the Customs Administration shall communicate to the importer, in writing if requested, its grounds for doubting the truth or accuracy of the particulars or documents produced and the importer shall be given a reasonable opportunity to respond. When a final decision is made, the Customs Administration shall communicate to the importer in writing its decision and the grounds therefor.

2. It is entirely appropriate in applying the Agreement for one signatory to assist another signatory on mutually agreed terms.

CUSTOMS VALUATIONStatement by the Chairman of the Negotiating Group
on MTN Agreements and Arrangements

Representatives of certain governments of developing countries had made proposals during the negotiations which reflected their concerns regarding two issues: (i) valuation of goods on the basis of officially established minimum values, and (ii) possible problems related to the valuation of importations into their countries by sole agents, sole distributors and sole concessionaires.

The Negotiating Group on MTN Agreements and Arrangements agreed to refer the following proposals to the GATT Committee on Customs Valuation.

* * *

Where a developing country makes a reservation to retain officially established minimum values within the terms of paragraph 3 of the Protocol and shows good cause, the Committee shall give the request for the reservation sympathetic consideration.

Where a reservation is consented to, the terms and conditions referred to in paragraph 3 of the Protocol shall take full account of the development, financial and trade needs of the country concerned.

* * *

A number of developing countries considering accession to the Agreement have expressed concern that problems may exist in the valuation of imports by sole agents, sole distributors and sole concessionaires. Under Article 21.1, developing countries have a period of delay of up to five years prior to the application of the Agreement. In this context, countries availing themselves of this provision could use the period to conduct appropriate studies and to take such other actions as are necessary to facilitate application.

In consideration of this, the Committee recommends that the Customs Cooperation Council assist developing countries, in accordance with the provisions of Annex II, to formulate and conduct studies in areas identified as being of potential concern, including those relating to importations by sole agents, sole distributors and sole concessionaires.