

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Customs Valuation

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POSSIBLE AMENDMENTS TO THE AGREEMENT

Communication from the United States Concerning the Valuation of Computer Software

The GATT Agreement on Customs Valuation has been in effect for over a year. The United States Administration wishes to note its satisfaction with the international implementation and operation of the Agreement to date.

A fundamental objective of the GATT system is the reduction of barriers to trade. The Agreement on Customs Valuation is intended to provide a fair, uniform and neutral system for the valuation of goods for customs purposes.

After over a year of experience with the operation of the Code, an anomalous situation has arisen with respect to the valuation of computer software. Under valuation practices in effect prior to the implementation of the Code, computer software was essentially valued on the basis of its physical characteristics, including the costs of recording the programs and a profit on these elements. However, certain parties to the Code have noted that, under the new valuation system, it could be argued that the information component of software might be included in dutiable value. This could pose a serious new barrier to international trade.

Having regard to the stated purposes of the GATT and the Customs Valuation Code, including the desire to reduce barriers to trade and to promote uniform and neutral valuation practices, the United States proposes for consideration by the parties to the Customs Valuation Code, the following amendment to the note to Article 1 of the Code. (New language shown in brackets):

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(From Note to Article 1):

The customs value shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods:

- (a) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;
- [(b) the value of any data or instructions which are imported on carrier media usable on a data processing system. This provision shall not, however, apply to data or instructions which are incorporated in data processing equipment;]
- (c) the cost of transport after importation;
- (d) duties and taxes of the country of importation.