

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/VAL/M/36**

19 November 2003

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## Committee on Customs Valuation

### MINUTES OF THE MEETING OF 6 OCTOBER 2003

Chairman: Mr. Ivan Lee (Hong Kong, China)

The agenda proposed for the meeting, circulated in WTO/AIR/2180 was adopted as follows:

<b>I.</b>	<b>REPORT OF THE WORK OF THE TECHNICAL COMMITTEE ON CUSTOMS VALUATION .....</b>	<b>2</b>
<b>II.</b>	<b>INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT .....</b>	<b>2</b>
(i)	<i>Notification of national legislation .....</i>	<i>2</i>
(ii)	<i>Notifications made by developing country Members .....</i>	<i>5</i>
<b>III.</b>	<b>INFORMATION ON THE APPLICATION OF DECISIONS OF THE COMMITTEE ON CUSTOMS VALUATION.....</b>	<b>6</b>
<b>IV.</b>	<b>TECHNICAL ASSISTANCE .....</b>	<b>6</b>
<b>V.</b>	<b>TRANSITIONAL REVIEW IN ACCORDANCE WITH PARAGRAPH 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA .....</b>	<b>6</b>
<b>VI.</b>	<b>REPORT OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS .....</b>	<b>9</b>
<b>VII.</b>	<b>INDIA – INFORMATION ON CERTAIN ASPECTS OF THE EUROPEAN COMMUNITIES VALUATION POLICY .....</b>	<b>9</b>
<b>VIII.</b>	<b>FOURTH, FIFTH, SIXTH, SEVENTH, EIGHTH, AND NINTH ANNUAL REVIEWS OF THE IMPLEMENTATION AND OPERATION OF THE CUSTOMS VALUATION AGREEMENT .....</b>	<b>10</b>
<b>IX.</b>	<b>PRESHIPMENT INSPECTION .....</b>	<b>10</b>
<b>X.</b>	<b>PARAGRAPH 12 OF THE DOHA MINISTERIAL DECLARATION (WT/MIN(01)/DEC/1): IMPLEMENTATION-RELATED ISSUES.....</b>	<b>11</b>
<b>XI.</b>	<b>OTHER BUSINESS.....</b>	<b>11</b>
(i)	<i>Date of the next meeting .....</i>	<i>11</i>
(ii)	<i>United States – Questions to Mexico on certain valuation policies.....</i>	<i>12</i>

## **I. REPORT OF THE WORK OF THE TECHNICAL COMMITTEE ON CUSTOMS VALUATION**

1.1 The Chairman informed Members that the Secretariat had received a communication from the WCO stating that, since the Technical Committee would be holding its 17<sup>th</sup> session from 13 to 17 October 2003, the representative of the WCO would submit its usual report in writing to the Secretariat. He proposed that the Secretariat circulate this report to Members and include it in the minutes of this formal meeting.

1.2 The Committee so agreed. The report is annexed to these minutes.

## **II. INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT**

### *(i) Notification of national legislation*

2.1 The Chairman recalled that Article 22 of the Agreement required each Member to inform the Committee of any changes in its laws and regulations relevant to the Agreement and any changes in the administration of such laws and regulations. In addition, the Decision on Notification and Circulation of National Legislation, adopted by the Tokyo Round Committee, required each Member to notify its legislation to the Committee. He suggested that, under this sub-item, the Committee take up the legislations as listed in the agenda. He further recalled that the notification of legislation by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu had been presented to the Committee. However, the examination of this notification remained suspended since the Committee's meeting on 4-5 November 2002 pending resolution of the difference in views between the parties involved on notifications across the WTO. He noted his appreciation for the flexibility of the parties involved in allowing the Committee to proceed with the examination of other notifications.

- *Armenia*

2.2 The Chairman drew Members' attention to the notification circulated in G/VAL/N/1/ARM/1 which contained the Decree on the Approval of Interpretative Notes to Customs Valuation and the relevant section (Section 4) of the Customs Code. In addition, Armenia had also submitted the responses to the Checklist of Issues in G/VAL/N/2/ARM/1.

2.3 The representative of the United States stated that his delegation had submitted questions to Armenia through the Secretariat.

2.4 The Committee took note of the statement and agreed to revert to the examination of this notification at its next meeting.

- *Burkina Faso*

2.5 The Chairman drew Members' attention to document G/VAL/N/1/BFA/1 which contained Regulation No. 05/99/CM/UEMOA on customs valuation; Decree No. 02-049 of 3 June 2002, which established the reference values serving as a basis for the elimination of customs duties and taxes in Burkina Faso; a list of goods subject to reference values; and a summary by the Ministry of Trade, Promotion of Industry and Crafts on the notification procedure applicable to WAEMU Member countries. At the last meeting, it was agreed to revert to this notification pending questions from the US delegation.

2.6 The representative of the United States requested that the notification be translated into English in order that his delegation could continue its examination. He asked whether Burkina Faso planned to use minimum values as noted in its notification?

2.7 The representative of the European Communities associated its delegation with the question raised by the United States with respect to minimum values used by Burkina Faso.

2.8 The Committee took note of the statements and agreed to revert to the examination of this notification at the next meeting.

- *China*

2.9 The Chairman drew Members' attention to document G/VAL/N/1/CHN/2 which contained the Customs Law of the People's Republic of China, amended and passed by the Standing Committee of the National People's Congress on 8 July 2000. This law went into effect on 1 January 2001. In addition, document G/VAL/N/1/CHN/3 contained the Customs Regulations of the People's Republic of China Regarding Determination on Customs Value of Royalties and License Fees Related to the Imported Goods. He recalled that during last year's Transitional Review Mechanism, it was agreed that Members could cross-reference questions raised and responses provided during the TRM and during the examination of the national legislation, so as not to duplicate work. While this was, of course, still possible, he suggested taking up Members' questions submitted in the context of the TRM during that agenda item.

2.10 The representative of the United States noted that his delegation had provided written questions on China's legislation pursuant to this agenda item. However, it would also pose the same questions under the Transitional Review item. Therefore, his delegation would appreciate written responses from China to the questions pursuant to this notification.

2.11 The representative of the European Communities reserved her delegation's right to pose subsequent questions. On the notification in document G/VAL/N/1/CHN/2, she asked why China introduced Article 55 and whether this actually modified Article 3 of the Agreement, as notified in G/VAL/N/1/CHN/1. This was a technical question which her delegation would submit in writing.

2.12 The representative of China stated that her delegation would respond to the question after it received it from the EC in writing.

2.13 The Committee took note of the statements and agreed to revert to the examination of this notification at its next meeting.

- *India*

2.14 The Chairman drew Members' attention to India's notification in G/VAL/N/1/IND/3 which contained the full text of India's Gazette Notification dated 7<sup>th</sup> September 2001, containing certain amendments to the Customs Valuation (Determination of Price of Imported Goods) Rules 1988. In addition, India's responses to the Checklist of Issues were contained in document G/VAL/N/2/IND/1 and Corr.1. At the previous meeting, it was agreed to revert to this agenda item pending questions to be submitted by the European Communities and the United States.

2.15 The representative of the European Communities informed the Committee that it had communicated its questions to India this morning. Her delegation asked to which Article of the Agreement did the amendments in G/VAL/N/1/IND/3 refer? Amendments contained in Article 3 of the Agreement mentioned detailed conditions and restrictions that were applicable. Rule 4, of the customs valuation law of India incorporated these. However, her delegation wanted to know in what

way the introduction of the Articles contained in the additional clauses A, B and C of Article 1, paragraph 1, now included in rule 4 of the regulations of India, continued to permit the implementation of Article 1 of the Agreement. This was a technical question that her delegation would submit in writing.

2.16 The representative of the United States also had questions which it would provide to the Indian delegation in writing. He raised a related matter concerning India's use of reference prices and not actual import values that resulted in a higher applied tariff of India's bound rate. His delegation analyzed that since the time India fixed the reference price on soybean oil, the average applied duty exceeded India's WTO bound rate. Following an earlier discussion on this, India had agreed to provide an explanation of how the reference price was calculated. While his delegation understood that India was working to resolve under-invoicing problems in the soybean oil market, it questioned whether fixed reference prices would remain a long-term policy and whether India had evaluated alternative methods to address the problems.

2.17 The representative of Canada supported the query from the EC seeking supplementary information. His delegation was also examining the notification and would appreciate any supplementary information to help it determine how these legislative amendments conformed to the provisions of the Agreement. His delegation reserved its right to submit subsequent questions.

2.18 The representative of India took note of the questions. Her delegation looked forward to receiving them from the US and Canada in writing and conveying them to her capital.

2.19 The representative of the United States sought clarification that India would not wait for the Canadian question before responding to the US and EC questions.

2.20 The representative of India informed Members that it was not her delegation's intention to wait for the Canadian questions before responding. She questioned whether the issue regarding reference prices for soybean oil, raised by the US, had been raised in the Committee before. She acknowledged that it had been raised in the Committee on Agriculture. Consequently, she asked that the issue and associated questions be submitted in writing so that her delegation could clarify whether this was a valuation issue or an agriculture issue.

2.21 The representative of the United States believed it was appropriate to raise the issue in this Committee because surpassing the bound rate resulted from the use of inappropriate reference prices on soybean oil. It was also perhaps relevant in the Agriculture Committee.

2.22 The Chairman urged India and the US to consult on the matter of soybean oil. The Committee took note of the statements and agreed to revert to the examination of this notification at its next meeting.

- *Thailand*

2.23 The Chairman drew Members' attention to document G/VAL/N/1/THA/1 which contained the Customs Act (No. 17) of B.E. 2543 and the Finance Ministerial Regulations No. 132 (B.E. 2543), "Specifying Rules, Procedures and Conditions on the Application and the Valuation of the Customs Value". In addition, the Secretariat had received the responses to the Checklist of Issues which were circulated in G/VAL/N/2/THA/1.

2.24 The representative of the European Communities informed the Committee that her delegation had transmitted a number of questions to Thailand in the past and was awaiting written answers to them. She reiterated her delegation's concern regarding the method of customs valuation for cars,

which her delegation considered as prohibited by the Agreement. Her delegation requested Thailand to review the provisions stating that the Director General of customs shall determine the values of cars because such a method did not reflect the real value of the goods.

2.25 The representative of the United States also submitted questions to Thailand regarding its notification. He noted that among these questions was the same one posed by the EC with respect to the power given to the Director General to determine the customs value of cars. His delegation would hoped to receive responses to the questions at the appropriate time and was continuing its examination of the responses to the Checklist of Issues.

2.26 The representative of Thailand did not recall the EC question and asked that it be forwarded in writing. It might have been raised in another context or body, but not in this Committee. His delegation would respond in due course to the questions by the EC and the US.

2.27 The Committee took note of the statements and agreed to revert to the examination of this legislation at the next meeting.

(ii) *Notifications made by developing country Members*

2.28 The Chairman drew Members' attention to document G/VAL/2/Rev.17 which contained the updated lists of all Members who had invoked special and differential treatment provisions under the Agreement. In addition, he drew attention to document G/VAL/W/76/Add.6 which contained an updated inventory of notification requirements pursuant to extension decisions and minimum value reservations.

2.29 The Committee took note of the information presented.

- *Requests for extension of delay periods*

2.30 The Chairman informed the Committee that, under this sub-heading, there was one request pending, namely from Rwanda. He was not aware of any new developments with respect to Rwanda's request. Unless any Member wished to take the floor on this request, he proposed to revert to it at the next meeting.

2.31 The representative of the European Communities suggested that the Secretariat write to the Rwandan mission to clarify the situation with regard to their request.

2.32 The Committee so agreed.

- *Notifications made under Committee Decisions on extensions or minimum values*

2.33 The Chairman stated that, under this sub-item, the Committee was to consider the notifications made under the Decisions concerning delay extensions and minimum value reservations. One such notification had recently been received from Honduras in G/VAL/N/4/HND/1.

2.34 The representative of the United States stated that his delegation was pleased to learn that Honduras had eliminated the use of minimum values in accordance with the Decision granted by the Committee. His delegation commended Honduras for working with the Committee and showing leadership in resolving this implementation issue.

2.35 The Committee took note of the information and the statement made.

### **III. INFORMATION ON THE APPLICATION OF DECISIONS OF THE COMMITTEE ON CUSTOMS VALUATION**

3.1 The Chairman informed the Committee that under this agenda item, the Committee noted any new notifications of application of the Decisions of the Committee on Customs Valuation on the "Treatment of Interest Charges in the Customs Value of Imported Goods and on the Valuation of Carrier Media Bearing Software for Data Processing Equipment", both adopted by the Committee and contained in document G/VAL/5. Since the last meeting, there had been one new notification from Indonesia under this agenda item. This was included in the updated document G/VAL/W/5/Rev.13.

3.2 The Committee took note of the information.

### **IV. TECHNICAL ASSISTANCE**

- *Information on technical assistance*

4.1 The Chairman informed Members that the information normally reported under this agenda item would be reported after the meeting of the 17<sup>th</sup> session of the Technical Committee and taken up at the next meeting of the Committee.

4.2 The Committee took note of the information.

- *Article 20.3 Technical Assistance and Trade-Related Technical Assistance*

4.3 The Chairman recalled that, under this sub-item, the Committee had adopted a Work Programme on Technical Assistance for Capacity Building as Regards the Implementation and Administration of the WTO Agreement on Customs Valuation, contained in document G/VAL/W/82/Rev.1. At the last meeting, the Committee discussed how to follow-up on this Work Programme. One suggestion was to repeat the information-gathering exercise on technical assistance needs which was carried out by this Committee in 1997 and 1998. However, it was agreed that Members would further reflect on the idea. In this connection, Members were aware that there were new WTO-wide procedures designed to streamline technical assistance requests into the annual technical assistance plans. Under these procedures, Members were supposed to establish priority areas for assistance among all areas of the WTO work as well as to clarify the type of assistance they needed for national activities. Hence, one of the factors to consider was the avoidance of two parallel and repetitive exercises. He asked for Members' views on this matter.

4.4 The representative of the Philippines noted that the WTO Secretariat to the Committee on Trade and Development had prepared a draft Technical Assistance Plan for 2004 which would be presented to the CTD soon. It appeared that for the preparation of this Plan, Members were not asked to submit requests for assistance but that such issues could be raised at the CTD meeting. She agreed that requests for assistance should not be made in two different Committees.

4.5 The Committee took note of the statement and agreed to revert to this matter at its next meeting.

### **V. TRANSITIONAL REVIEW IN ACCORDANCE WITH PARAGRAPH 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA**

5.1 The Chairman recalled that, in accordance with paragraph 18 of the Protocol, the Committee was to report to the Council for Trade in Goods on the outcome of this Review which would then report to the General Council. He drew Members' attention to China's submission on this agenda item in G/VAL/W/125 and Corr.1. In addition, questions to China were received from the Separate Customs

Territory of Taiwan, Penghu, Kinmen, and Matsue, and from the United States. He asked China to introduce its submission.

5.2 The representative of China introduced China's implementation of the Agreement and the specific commitments contained in the Protocol of Accession. Information required by Annex 1A to China's Protocol of Accession had been provided to the Committee in advance of this meeting. It thoroughly explained the valuation methods used by China. The information had effectively covered Members' major concerns. The government of China attached great importance to the review, and senior officials from the General Administration of Customs were present to facilitate the review. Some members provided questions to China. However, her delegation had not received these questions until 1 October. As the first week of October was the National Day holiday in China, her delegation had difficulty thoroughly studying them. Under these circumstances, she attempted to respond to the questions.

5.3 She stressed the sincerity with which China was implementing its WTO commitments shown by the conformity of China's legislation with WTO rules. It was her delegation's understanding that the existence of some linguistic differences was only natural as these differences were merely in letter not in content. As a country not native in English, China had its own linguistic expression. The process of transferring WTO Agreements into domestic legislation could not be simply literally transplanting WTO text into national laws and regulations. Some adaptation based on China's linguistic practice was necessary for custom authorities and importers alike. The adaptive approach could better fulfill China's WTO obligations than the approach of literal translation. The practice over the past two years showed that linguistic differences had not in any way substantively impeded the implementation of China's obligation in customs valuation, nor obstructed the normal course of trade. If some members thought otherwise, however, China promised to deal with cases where firm evidence was provided.

5.4 She added that the provisions in Chinese law for withdrawal of goods under guarantee, in accordance with Article 13 of the Agreement, was a basic custom practice to speed up customs clearance. As a condition for this provision, the required guarantee was only requested when the custom value was difficult to determine. The guarantee should cover the ultimate payment of custom duties for which the goods might be liable. In that spirit, it was rational for the sum of the guarantee to be larger than the declared value. Given the variety of imported goods, determining the guarantee differed under the specific circumstances.

5.5 With regard to the determination of insurance and freight, in accordance with Article 8.2 of the Agreement, Article 3 of *The Rules of General Administration of Customs of the People's Republic of China Regarding Determination on Customs Value of Imported and Exported Goods* stated explicitly that "The customs value of the imported goods ..., including the charges associated with the transport of imported goods and the cost of insurance and associated costs incurred prior to unloading of the goods at the port within the customs territory of the People's Republic of China. ". Chapter V of *The Rules of General Administration of Customs Regarding Determination on Customs Value of Imported and Exported Goods* provided that the cost of freight and insurance for goods imported shall be determined in accordance with the charges actually paid. This was a fundamental principle which applied broadly to the calculation of freight, insurance and other charges in the customs value of imported and exported goods. She added that Article 26 and 28 of the Rules set forth that if the freight or insurance for imported goods could not be determined or did not occur, the customs administration shall calculate the custom value on a percentage basis. She underlined that the condition for this calculation method was that the freight or insurance for imported goods could not be determined or did not occur, which was rarely the case in the course of trade. In the drafting of these provisions, the practice and standards for transportation and insurance industry had been taken into adequate consideration. The percentage basis calculation was the result of broad experience and

statistics. Generally, these designated percentages were lower than prices in actual trading practice. In line with the market situation, however, the level of the percentage was a variant rather than a constant figure.

5.6 With regard to the application of the foreign exchange rate, she informed Members that currently, the US Dollar, the Japanese Yen, the Hong Kong Dollar and the Euro were four fully exchangeable currencies used for most international transactions. The State Administration of Foreign Exchange (SAFE) published the exchange rates against RMB of these currencies, which constituted the basis for transfers. Given the stability of the US Dollar's exchange rate versus the RMB, this rate was generally taken by SAFE as the basis in the determination of the exchange rate for other foreign currencies versus the RMB. In the calculation, the exchange rate of the currency against the US Dollar at the time of the transaction (could be specified by the date) in the international currency market was taken as the reference and its rate against RMB could be determined. Her authorities were convinced that the exchange rate through this approach was a reliable and WTO-consistent basis for the calculation of the value of foreign currencies.

5.7 With regard to the application of the computed value method and the deductive value method, China was committed to fully applying the Agreement and refrained from any reservations. According to the Agreement, the computed value shall include the cost or value of materials and processing, profit, general expenses and other expenses like freight and insurance. Chinese legislation required importers to provide the necessary information for the application of the computed value. In the absence of the information, the request to use the computed value could only be objected by the custom authority.

5.8 Finally, on the use of the transaction value among related parties, Article 3.6 and 42 of *The Rules of General Administration of Customs of the People's Republic of China Regarding Determination on Customs Value of Imported and Exported Goods* set forth guidelines on the issue, which was in conformity with WTO rules.

5.9 The Chairman asked if the two Members that had submitted questions had any further points?

5.10 The representative of Chinese Taipei commended China's efforts to meet their accession commitments in the area of customs valuation. His delegation had put forward 4 questions of which he considered 2 had been addressed in the written statement by China. One concerned the regulation of import and export tariffs, and the other concerned the two Decisions adopted by the Committee which China indicated it was preparing to apply by December 2003. Another question raised last year on the calculation of the determination of insurance and freight rate was answered verbally by China. His delegation believed that this smooth and faithful implementation of the accession protocol was in the best interest for all Members. His delegation had no further questions. He added, for the record, that his delegation's submission, circulated originally in G/VAL/W/126, was revised by the Secretariat without his delegation's consent. His delegation considered that, being a Member-driven organisation, the Secretariat of the WTO should refrain from such initiatives.

5.11 The representative of the United States appreciated the information China provided. In addition, he welcomed China's offer to provide a written copy of its oral statement to allow his experts to review it. He acknowledged the late circulation of his delegation's questions, and noted that they also applied to the agenda item on legislative notifications. Since the questions were not addressed in China's statement, his delegation looked forward to receiving written responses.

5.12 The representative of the European Communities thanked China for the information provided. After further studying it, she reserved her delegation's right to pose further questions at a later time.

5.13 The Chairman recalled that, in accordance with Paragraph 18 of China's Accession Protocol, the Committee was to report to the Council for Trade in Goods indicating the submissions received and the statements made on this matter. He therefore proposed that the Secretariat draft a short, factual note on this discussion. This draft would be circulated to Members by fax for any comments or changes before final submission to the CTG.

5.14 The Committee so agreed and the Transitional Review was concluded.

## **VI. REPORT OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS**

6.1 The Chairman drew Members' attention to document G/VAL/W/123 which contained the draft report of the Committee to the Council for Trade in Goods. He asked Members for comments.

6.2 The representative of the Philippines asked for clarification regarding the words "concluding" and "resuming" in the bullet points concerning the discussion of paragraph 8.3. Her delegation had an interest in this matter.

6.3 The representative of India considered that it was not appropriate to use the word "conclude" in describing the closure of this suspended item.

6.4 The Chairman clarified that at the 22 July meeting, the discussion of the agenda item suspended from the meeting of 23 May was resumed. At the first formal meeting today, the item was closed. It would be re-opened under agenda item J of this meeting. He suggested revising the text to reflect this clarification.

6.5 The representative of the United States agreed to revise the draft accordingly.

6.6 The representative of the Canada suggested incorporating what was written under the 22 July and 6 October sessions with respect to this agenda item into the seventh bullet point under the 23 May meeting. The current 10 bullets would remain, but the bullet discussing paragraph 8.3 would describe what was discussed on 23 May, 22 July and 6 October covering the entirety of the issues raised. Then, the subheadings of 22 July and 6 October could be deleted. This way, the subheadings that might create confusion would be deleted.

6.7 The representative of the Philippines said that the Canadian suggestion made sense. Her delegation still asked that the word "conclude" be changed to "closed".

6.8 The Committee agreed to adopt the report with the change suggested by Canada and with the word "conclude" changed to "closed" in describing the discussion of paragraph 8.3.

## **VII. INDIA – INFORMATION ON CERTAIN ASPECTS OF THE EUROPEAN COMMUNITIES VALUATION POLICY**

7.1 The Chairman recalled that at the previous meeting of the Committee it was agreed to revert to this item at this meeting following an exchange of views between India and the EC. Since then, Brazil had circulated questions to the European Communities on this matter in G/VAL/W/122.

7.2 The representative of the European Communities informed the Committee that her delegation was finalizing its reply to the Brazilian questions and would circulate them in the next few weeks.

7.3 The representative of India asked if the responses would be circulated to the Committee as her delegation wished to see them.

7.4 The representative of the European Communities said that the responses would be circulated to all Members and, as a matter of priority, to Brazil and India.

7.5 The Committee took note of the statements made.

#### **VIII. FOURTH, FIFTH, SIXTH, SEVENTH, EIGHTH, AND NINTH ANNUAL REVIEWS OF THE IMPLEMENTATION AND OPERATION OF THE CUSTOMS VALUATION AGREEMENT**

8.1 The Chairman informed Members that at the previous meeting, the Committee took note of the five documents containing the Fourth, Fifth, Sixth, Seventh and Eighth Annual Reviews. These were contained in documents G/VAL/W/29, G/VAL/W/43, G/VAL/W/77, G/VAL/W/89, and G/VAL/W/109. The Committee also had before it today the Ninth Annual Review in G/VAL/W/124. It was agreed that this matter would be referred to this meeting.

8.2 The representative of India informed the Committee that her delegation was still not in the position to lift its reservation to all the preceeding Annual Reviews. It was continuing to examine the matter in consultation with the Secretariat and with interested delegations.

8.3 The Committee took note of the statement made.

#### **IX. PRESHIPMENT INSPECTION**

9.1 The Chairman informed Members that following adoption of the final report of the Working Party on Preshipment Inspection in document G/L/300, the General Council agreed that future monitoring of the Agreement on Preshipment Inspection should be undertaken initially by the Customs Valuation Committee, where PSI would be a standing agenda item. Therefore, this subject has been included on the agenda for this meeting. At the previous meeting, Members were reminded that, according to Article 6 of the Agreement on PSI, the Ministerial Conference was obliged to review the provisions, implementation and operation of the Agreement "at the end of the second year from the date of entry into force of the WTO Agreement and every three years thereafter..." The Chairman recalled that the first review was carried out from 1996 through 1999, the year which in fact marked the three-year period for the second review. He asked the Committee to consider for discussion at this meeting two questions: whether it was desirable to carry out a second review of the Agreement, given the obligation under the Agreement and the fact that a second review called for every three years thereafter was overdue; and secondly if a review was desirable, in which body of the WTO should this review be conducted. Members indicated that they would need more time to reflect on this question. At the last meeting, it was agreed that if there were no comments on a possible Review, the Committee would postpone consideration of this item.

9.2 The representative of the European Communities recalled the obligation under Article 6 of the PSI Agreement to carry out a Review. However, maintaining this item on the agenda did not prejudice that discussion. Members might have other issues that they would wish to raise under this agenda item. Therefore, her delegation considered it desirable to maintain the item on the agenda for future meetings.

9.3 The representative of the United States stated that his delegation supported a second review of the PSI Agreement in accordance with the obligations under its Article 6. In addition, his delegation appreciated the document G/VAL/W/63/Rev.3 and requested that it be updated for each meeting.

9.4 The representative of Canada supported the views of the EC.

9.5 The Committee took note of the statements and agreed to revert to this item at its next meeting.

**X. PARAGRAPH 12 OF THE DOHA MINISTERIAL DECLARATION (WT/MIN(01)/DEC/1): IMPLEMENTATION-RELATED ISSUES**

10.1 The Chairman recalled that the Committee engaged in considerable discussion last year pursuant to its mandate in paragraph 8.3 of the Implementation Decision of the Doha Ministerial Declaration "to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.". In this context, three proposals were received. One from India in document G/VAL/W/102, one from Canada in G/VAL/W/110 and one from the European Communities in G/VAL/W/112. In addition, Mexico submitted questions to India on its proposal which were circulated in G/VAL/W/104. India provided oral responses reproduced in the report of the 4-5 November meeting in G/VAL/M/32 and Corr.1

10.2 He added that at the end of last year, as required in the mandate, the Committee submitted its report to the General Council which was circulated in G/VAL/50. Annexed to this report were terms of reference for the Technical Committee on Customs Valuation to provide technical input and advice on elements of the Committee's work to assist the Committee in further evaluating the submissions and views. The Technical Committee was requested to provide this technical input to this Committee by 15 May 2003 in order that the Committee could consider it. This response was received and circulated in G/VAL/54. At the meeting of 23 May 2003, it was agreed to suspend consideration of this agenda item pending consultations by the incoming Chair.

10.3 Following that meeting, he engaged in intensive consultations among Members with a view towards seeking agreement on a report to the July meeting of the General Council. The Committee resumed consideration of this item at its meeting on 22 July. At that meeting, he presented, on his own responsibility, a draft report in the form of document Job(03)/151. No consensus could be reached at this meeting and the Chair of the General Council reported at the last General Council meeting that the Committee's work was on-going, and that this Committee would report as and when it was completed. In the last few days, he informed Members that he had undertaken a preliminary sounding-out with some delegations. The initial indications were that no new developments had been made on this matter since July. In this light, he suggested reverting to this item at the next formal meeting of the Committee. He would continue to carry out informal consultations under his own responsibility among Members in the meantime. If he sensed any developments in Members' positions, he might convene a meeting of the Committee at the appropriate time.

10.4 The representative of India underscored the importance that her delegation attached to paragraph 8.3 of the Doha Ministerial Decision and to the early conclusion of this agenda item. She expressed her delegation's appreciation for all the efforts that the Chair had made to bring the matter to a close. She urged all Members of the Committee to work towards resolving this outstanding matter and considered that the Chair's suggested way of proceeding would move in this direction.

10.5 The Committee took note of the statements made and agreed to revert to this item at its next meeting.

**XI. OTHER BUSINESS**

(i) *Date of the next meeting*

11.1 The Chairman informed Members that the next meeting of the Committee was scheduled for 8 March 2004.

(ii) *United States – Questions to Mexico on certain valuation policies*

11.2 The representative of the United States noted that his delegation was submitting some questions to Mexico regarding its use of estimated prices and regarding new post-importation verification practices. These questions had been submitted to the Secretariat for circulation and transmittal to Mexico.

11.3 The Committee took note of the statement.

11.4 The meeting was adjourned.

**REPORT TO THE COMMITTEE ON CUSTOMS VALUATION ON THE ACTIVITIES OF  
THE TECHNICAL COMMITTEE ON CUSTOMS VALUATION AND WCO VALUATION  
TECHNICAL ASSISTANCE AND CAPACITY BUILDING ACTIVITIES**

(October 2003)

Chair and Members of the Committee,

This report is provided on behalf of Mme. Hakima Azizi, Chairperson of the Technical Committee on Customs Valuation (Technical Committee) and the WCO Secretariat.

**17<sup>th</sup> Session of the Technical Committee**

The Technical Committee held its 17<sup>th</sup> Session at WCO Headquarters from 13--16 October 2003. 52 delegations and 2 international organisations participated.

A number of issues were discussed including:

**Draft Guide to the Exchange of Customs Valuation Information**

The Technical Committee was advised by the Secretariat that the Guide has been published and is available on the WCO Members' Web site. A WCO information brochure on the Guide has also been published.

**Draft Guidelines on the Development and Use of a National Valuation Database as a Risk Assessment Tool**

The work of the Technical Committee on developing these Guidelines was reported to you in the Chairperson's report of the 16<sup>th</sup> Session in May 2003.

At the 17<sup>th</sup> Session, the Technical Committee examined the draft Guidelines and made a number of amendments to the proposed text as well as inserting new text. The new draft will be finalised by the Secretariat during the intersession and circulated to Members for further written comment and discussion at the 18<sup>th</sup> Session of the Technical Committee.

**Technical Agenda Items**

The Technical Committee examined three technical issues at its 17<sup>th</sup> Session. These were: "the valuation treatment of importations by sole agents, sole distributors or sole concessionaires"; the expression "sold for export"; and, "the valuation treatment of price influenced importations from related parties".

The Technical Committee discussed each issue in significant detail and agreed that :

Importations by sole traders, etc. : examination will continue at the 18<sup>th</sup> Session;

The expression "sold for export" : Members are invited to send any judicial decisions, legislation and procedures on the subject to the Secretariat during the intersession for further discussion at the 18<sup>th</sup> Session;

The valuation treatment of price influenced importations from related parties : the Secretariat was asked to revise the potential case study based on the comments raised and the Member who submitted the issue was asked to forward any further relevant information to the Secretariat.

### **Theme Meeting (Spring 2005)**

As the 18<sup>th</sup> Session of the Technical Committee will begin with a Theme Meeting, discussion on topics for the proposed 20<sup>th</sup> Session Theme Meeting was delayed until completion of the 18<sup>th</sup> Session Theme Meeting.

### **Technical Assistance and Capacity Building – Members**

The Customs Administrations of France, Indonesia, Japan and the United States provided written information on the valuation technical assistance and capacity building programmes conducted by their administrations for the benefit of other Member administrations as well as their own personnel. Canada and Slovakia provided oral reports on their technical assistance activities. The Canadian, French and U.S. reports included their participation in the WCO/USAID valuation technical assistance programme. The recipient Members of the technical assistance programmes were Guinea, Senegal, Mauritius (regional), Chile, Lesotho, Tanzania, Kenya, Nepal, Ukraine, St. Vincent and the Grenadines, St. Kitts, Saint Lucia, Pakistan and Jordan. The technical assistance reports also included officers travelling to other countries for training in the case of Slovakia (to Ukraine) and Indonesia (to Japan and Korea).

### **Technical Assistance and Capacity Building – the Secretariat**

The Secretariat reported that national valuation technical assistance and capacity building programmes had been conducted in Bhutan, Cambodia and Pakistan. One ASEAN regional workshop was held in Brunei Darussalam. These programmes were delivered with sponsorship and participation from the Japan Customs and Tariff Bureau.

The Secretariat also reported on the 38<sup>th</sup> WCO English Fellowship Programme which was held in September/October 2003. Seven officers from the Customs administrations of Cambodia, Japan, Malawi, the Maldives, Malaysia, Nepal and Uganda focused on Valuation, this was the largest number of valuation participants since the programme began.

The Technical Committee heard that the WCO/USAID valuation technical assistance programme to the five Sub-Saharan countries of Kenya, Lesotho, Nigeria, Senegal and Tanzania was in its final phase. Evaluation of the programme will be conducted in each of the countries in the forthcoming months. The Secretariat informed the Technical Committee that the programme had been very successful.

The Secretariat advised the Technical Committee that development work on the Intermediate/Advanced Valuation Training Module was in progress in partnership with representatives from the French and United Kingdom Customs administrations. The deadline for completion of the end of December 2003 was expected to be met.

The Technical Committee also heard a presentation on progress with regard to the WCO's e-learning programme and specifically the e-learning module to be based on the Basic Valuation Training Module.

### **Implementation Progress of Members**

The Technical Committee heard a presentation by Angola on its implementation progress with regard to the Agreement. Reports were also provided by the Customs administrations of the Democratic Republic of the Congo, Indonesia, Malaysia and Uganda on their implementation progress.

### **Secretariat Departures**

The Technical Committee was advised of the forthcoming departures of Mr. Holm Kappler, Director Tariff and Trade Affairs and Ms. Lee Deegan, Senior Technical Officer, Valuation Sub-Directorate. The Technical Committee was also advised of the election by the Council of Mr. Criticles Mwansa, the current Director General of Zambia Customs as the new Director of Tariff and Trade Affairs.

### **Next Meeting of the Technical Committee**

The 18<sup>th</sup> Session of the Technical Committee is scheduled for the week of 29 March to 2 April 2004 with the first two days being the Theme Meeting.

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