

WORLD TRADE ORGANIZATION

RESTRICTED
G/VAL/M/38
13 December 2004

(04-5473)

Committee on Customs Valuation

MINUTES OF THE MEETING OF 25 OCTOBER 2004

Chairmen: Mr. Ivan Lee (Hong Kong China) and Robin Twyman (United Kingdom)

The agenda proposed for the meeting, circulated in WTO/AIR/2405 and Add.1 was adopted as follows:

I.	ELECTION OF OFFICERS	2
II.	REPORT OF THE WORK OF THE TECHNICAL COMMITTEE ON CUSTOMS VALUATION	2
III.	INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT	2
(i)	<i>Notification of national legislation</i>	2
(ii)	<i>Notifications made by Developing Country Members</i>	7
IV.	INFORMATION ON THE APPLICATION OF DECISIONS OF THE COMMITTEE ON CUSTOMS VALUATION	9
V.	TECHNICAL ASSISTANCE	9
VI.	TRANSITIONAL REVIEW IN ACCORDANCE WITH PARAGRAPH 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA	10
VII.	REPORT OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS	11
VIII.	INDIA - INFORMATION ON CERTAIN ASPECTS OF THE EUROPEAN COMMUNITIES VALUATION POLICY	12
IX.	FOURTH, FIFTH, SIXTH, SEVENTH, EIGHTH, NINTH AND TENTH ANNUAL REVIEWS OF THE IMPLEMENTATION AND OPERATION OF THE CUSTOMS VALUATION AGREEMENT	12
X.	PRESHIPMENT INSPECTION	13
XI.	PARAGRAPH 12 OF THE DOHA MINISTERIAL DECLARATION (WT/MIN(01)/DEC/1): IMPLEMENTATION-RELATED ISSUES	14
(i)	<i>Paragraph 8.3 of document WT/MIN/(01)/17</i>	14
XII.	OTHER BUSINESS	14
(i)	<i>Date of the next meeting</i>	14

I. ELECTION OF OFFICERS

1.1. The Chairman, Mr. Ivan Lee, recalled that the Chairman of the Council for Trade in Goods carried out consultations on a slate of names for appointment as Chairpersons of standing bodies for 2004/2005 in accordance with the established guidelines for the appointment of officers. On the basis of this understanding reached, he proposed that the Committee on Customs Valuation (Committee) elect Mr. Robin Twyman, of the United Kingdom, by acclamation.

1.2. The Committee so agreed and Mr Twyman took over as Chairman for the remainder of the meeting.

II. REPORT OF THE WORK OF THE TECHNICAL COMMITTEE ON CUSTOMS VALUATION

2.1 The observer of the World Customs Organization reported on the activities of the Technical Committee and on the WCO technical assistance programme on customs valuation. This report is contained in Annex I.

2.2 The Committee took note of the report.

III. INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

(i) Notification of national legislation

3.1 The Chairman recalled that Article 22 of the Agreement on Customs Valuation (Agreement) required each Member to inform the Committee of any changes in its laws and regulations relevant to the Agreement, and of 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 in sequence 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

3.2 The Chairman recalled that at the last meeting, it was agreed to revert to Armenia's notification in document G/VAL/N/1/ARM/1 and G/VAL/N/2/ARM/1 at this meeting. At the last meeting, the United States had stated that they were still waiting for replies to their questions to Armenia which were circulated in G/VAL/W/128. Armenia had not been present at the meeting and the Committee agreed that the Secretariat should communicate with the delegation of Armenia. Although the Secretariat had contacted the Armenian delegation in the intervening period, asking it to submit its responses and to be present in the meeting, Armenia was not present and had not submitted its responses.

3.3 The representative of the United States reiterated that they were looking forward to receiving responses to their questions and having an idea of when those responses would surface.

3.4 The Chairman suggested that the Secretariat may again communicate with Armenia.

3.5 The Committee took note of the statements made and agreed to revert to this notification at its next meeting. Any follow-up questions should be submitted to the Secretariat before 25 February 2005.

- *Burkina Faso*

3.6 The Chairman recalled that at the last meeting the Committee took note of the statement made by the delegation of Burkina Faso about the continuation of minimum values, and, of the statements made by the United States, Canada, and European Communities. The Committee agreed to revert to Burkina Faso's notification, contained in document G/VAL/N/1/BFA/1, at this meeting. Burkina Faso had not yet requested for a waiver concerning the continuation of minimum values. The delegation of Burkina Faso was not present.

3.7 The representative of the United States stated that she would again ask Burkina Faso whether they intend to request a waiver for use of minimum values, since the use of minimum values is not consistent with the application of the Agreement.

3.8 The Committee took note of the statements made and agreed to revert to this notification at its next meeting. Any follow-up questions should be submitted to the Secretariat before 25 February 2005.

- *China*

3.9 The Chairman recalled that the Committee agreed to revert at this meeting to the two outstanding Chinese notifications contained in documents G/VAL/N/1/CHN/2 and G/VAL/N/1/CHN/3. China had also since notified further customs valuation regulation in document G/VAL/N/1/CHN/4. He also recalled that the review of China's legislation in document G/VAL/N/1/CHN/1 had been concluded at the Committee's meeting in May 2003. He then proposed, without prejudice to this notification's earlier conclusion, putting it back on the agenda of this meeting so that China would be able to give replies to the United States' earlier questions. For ease of reference, the United States had amalgamated all its questions in document G/VAL/W/137, which now contained the outstanding questions about document G/VAL/N/1/CHN/1 originally submitted in document G/VAL/W/127, as well as outstanding questions about documents G/VAL/N/1/CHN/2 and G/VAL/N/1/CHN/3, which were originally submitted in document G/VAL/W/134. China submitted a written reply to the US questions in document G/VAL/W/141.

3.10 The Chairman stated that in informal consultations, Members concerned had confirmed to him that cross-referencing between this item and the Transitional Review Mechanism (TRM) was acceptable to them to avoid duplication of work and to avoid repeating earlier questions or answers. But they would wish to avoid questions on the same issues coming up under both Notification of National Legislation and the TRM. He proposed therefore that for practical reasons, and without prejudice to members' rights, issues dealt with under this agenda item should not later be brought up in China's TRM. But if it became necessary the TRM could be suspended and momentarily the discussion reverted back to the Notification of National Legislation agenda item.

3.11 The representative of the United States stated that document G/VAL/W/132 was a consolidation of the other submissions they had made, in an effort to engage with China on the TRM requirements. She thanked the Chairman, and the former Chairman, for their efforts, in working with their delegation and the Chinese delegation to return to the practice of dealing with notifications of legislation. It was the expectation of every Member to receive written replies when submitting

written questions regarding notified laws and regulations and related practices. This practice was a hallmark of this Committee and had allowed constructive exchanges and greater understanding.

3.12 She also stated that the United States had received written responses from China to their streamlined questions that morning. They would review those responses and come back to them at the next meeting. In addition, as part of their analysis of China's notification and for purposes of this agenda item, they had some reflections which they had not put in their original questions. To these reflections China might react orally, as it was the practice of the WTO bodies and sub bodies that Members asked questions verbally, on the understanding that other delegations would respond verbally, or come back later if they were not able to. She then requested China to confirm the following issues, hoping that China would give them quick responses, as it was a matter of confirmation of their reaction to some information they had received:

(a) China's valuation regime does not involve the use of reference prices, with additional confirmation that if such practice might arise it would be corrected.

(b) The United States had some reports from exporters about situations where China's customs was not treating software consistent with its commitments. Therefore could the Chinese delegation confirm that the operation of China's customs valuation regime regarding software involves application of the decision regarding the valuation of software and, also that China's valuation regime does not involve a practice of adding royalty and similar fees to the dutiable value of software.

3.13 The representative of the European Communities stated that the TRM was a very rewarding exercise to exchange views, whether it was in the form of questions and answers or collateral exchanges. Members were much better off now in terms of information available, than they would have been if they hadn't continued this exercise. He appreciated the responses that they had seen.

3.14 He also stated that in document G/VAL/N/1/CHN/4, he had noticed that under Article 19.5 concerning royalties and license fees, one of the conditions in relation to payment of royalties which comes directly from Article 8 of the Agreement was that the royalty payment must relate to the goods. That particular phrase did not seem to be, at least not in English, reflected in the text. In Article 18, paragraph 3, there is a phrase in English that says "are appropriate adjustments" whereas the Agreement says "unless there is appropriate adjustment". It would seem, to his delegation, that these were probably omissions in transposition of text but they had just wanted to point them out. Further, Article 23 referred to the fact that the Customs value of import goods on lease shall be the rental determined by the customs. He would assume that any international norms on this issue, like WCO instruments, would be obviously recognised and followed by the Chinese customs authorities. He further had a comment or a question on exchange rates, but the question appeared to be already answered by China. This again illustrated the utility and benefit of having the fullest exchanges of information possible. He added that one or two provisions did not seem to be entirely consistent with the terms of the Agreement, but he would be reasonably confident that the Chinese authorities intended them to be so, and if that could be confirmed now or later it would be fine, as far as his delegation was concerned.

3.15 The representative of China stated that with regard to the intervention made by the US delegation, his quick response was that first those Chinese notifications should be read very carefully. If they were not sure about the content of the English translation, they were advised to read the Chinese, to get the correct meaning in authentic form. The Chinese legislation, their custom valuation and policy practice were consistent with the Agreement. With regard to the verbal questions, posed by the US Delegate, he asked that they be submitted in writing to China as soon as possible. Once they received those questions in written form they were going to consider what would be the appropriate next step to process them. The third point he wanted to make with regard to the US submission was that prior to this session, his delegation had prepared some written answers on these

points. He also added that in consultation with the Chairman, his delegation had voiced some reservations about the way in which certain notifications were being dealt with, for instance, certain notifications had already been concluded in a previous session but again had been brought up in this session. He wondered as to what would be the implications of this kind of practice for the work of this Committee in the future. They hoped that this would not in any way affect the work of this Committee next year.

3.16 With regard to the intervention by the EC delegation, he stated that, if the European Communities had some questions about the translation of certain Chinese notifications submitted to this Committee, they were prepared to study those issues, but the EC was also advised to read the Chinese version, because only the Chinese version was applicable in China and that the English version, submitted to this Committee, was only for reference. Regarding other questions on substance, he requested the EC delegation to submit written questions to them, and then they would consider what was the next appropriate step to handle them.

3.17 The representative of the United States stated it implicitly appeared that China had made that confirmation on the US questions. Perhaps they would be enlightened further by the written responses, with respect to the questions that they asked verbally today, by way of confirmation. She also pointed out that the WTO is operating under three official languages, and that they could have constructive exchanges and greater understanding, if they pursued the follow-ups in English

3.18 The Chairman proposed that the Committee take note of the statements made and revert to this agenda item at the next meeting. Any follow-up questions should be submitted to the Secretariat before 25 February 2005.

3.19 It was so agreed.

- *India*

3.20 The Chairman recalled that it had been agreed to revert to India's notification in G/VAL/N/1/IND/3 which contained certain amendments to the Customs Valuation (Determination of Price of Imported Goods) Rules 1988, and India's responses to the Checklist of Issues contained in document G/VAL/N/2/IND/1 and Corr.1. India had replied to the oral questions from the European Communities and written questions from the United States in Document G/VAL/W/128 at the last meeting, and these responses had been circulated in document G/VAL/W/133. The United States had raised further questions in document G/VAL/W/139.

3.21 The Representative of India stated that they had received follow-up questions from the US and would respond to them in due course, as they had been forwarded to the capital and were being examined.

3.22 The Representative of the European Communities thanked India for the verbal responses to their questions and also the written version they received after the last meeting. He stated that their interest in this issue remained undiminished and they looked forward to exploring it further, probably on the basis of the questions/responses from the US, and the Indian response to the US questions. They remained interested in this amendment to the legislation.

3.23 The Committee agreed to revert to this legislation at the next meeting. Any follow-up questions should be submitted to the Secretariat before 25 February 2005.

- *Mexico*

3.24 The Chairman drew Member's attention to Mexico's customs legislation contained in document G/VAL/N/1/MEX/1 and the English translation in document G/VAL/N/1/MEX/1/REV.1, which contained the customs laws of 15 December 1995 and 31 December 1996 and its regulations of 6 July 1996, and also documents G/VAL/N/2/MEX/1 and G/VAL/N/2/MEX/1/Corr.1, which contained Mexico's responses to the check list of issues. He further stated that the questions asked by the United States at the last meeting about estimated prices and pre-shipment, and Mexico's replies, had been circulated in documents G/VAL/W/129 and G/VAL/W/132 respectively, while the subsequent questions of the United States were contained in document G/VAL/W/138.

3.25 The representative of Mexico thanked the United States for their questions and stated that they would be responding to them in due time as they had been sent to the capital.

3.26 The Committee agreed to revert to this agenda item at its next meeting. Any follow-up questions should be submitted to the Secretariat before 25 February 2005.

- *Paraguay*

3.27 The Chairman drew the attention of the Members to Paraguay's notification of its Customs Legislation in document G/VAL/N/1/PRY/1, which contains Decree No. 13721 of 3 July 2001 establishing supplementary regulations to Laws 260/93 and 444/94 and repealing Decree No. 7403/95.

3.28 The Committee agreed to conclude the examination of the Paraguay legislation.

- *Peru*

3.29 The Chairman recalled that at the last meeting the Committee agreed to revert to the Peruvian notification contained in document G/VAL/N/1/PER/2 at this meeting. This document contained the customs legislation in Supreme Decrees Nos. 203-2001-EF, 131-2000-EF, 186-99-EF, and 187-99-EF.

3.30 The Representative of the United States stated that at the last meeting they had requested that this item be retained for this meeting, as they were reviewing the notification. She added that they would seek to keep the item open again, because they were seeking to review copies of laws mentioned within the document in order to have a fuller understanding of what had been notified.

3.31 The Committee agreed to revert to this agenda item at its next meeting. Any follow-up questions should be submitted to the Secretariat before 25 February 2005.

- *Philippines*

3.32 The Chairman drew the attention of the Members to Philippines' responses to the Check List of Issues contained in document G/VAL/N/2/PHL/1.

3.33 The Committee concluded the examination of Philippine's legislation.

- *Tanzania*

3.34 The Chairman stated that Tanzania had also notified its responses to the Check List of Issues which were contained in document G/VAL/N/2/TZA/1.

3.35 The Representative of the United States took particular note of Tanzania's leadership in this area, and its commitment to the rules based trading system both in its implementation of the

Agreement and also in its active participation in this type of Committee work, like submission of a checklist.

3.36 The Committee concluded the examination of Tanzania's legislation.

- *Thailand*

3.37 The Chairman recalled that at the last meeting, members agreed to revert at this meeting to Thailand's notification in document G/VAL/N/1/THA/1 and the responses to the Checklist of Issues in document G/VAL/N/2/THA/1. He added that the United States circulated questions to Thailand in document G/VAL/W/128, and Thailand's replies had been circulated in document G/VAL/W/130.

3.38 The representative of the United States stated that at the last meeting, they indicated that they might have some follow-up questions concerning Thailand's responses to their original questions. She had submitted the follow-up questions to Thailand at the beginning of this meeting, regarding sufficient guarantees, in particular the requirements under Article 13 of the Valuation Agreement. The United States wanted to confirm their understanding of section 40 and section 112 of the Thailand Legislation that goods shall be released upon sufficient guarantee in accordance of Article 13 of the Agreement. She further stated that they also had some questions concerning the interpretative notes, and the checklist of issues. Regarding the valuation of Carrier media bearing software for data processing equipment they wanted to know whether Thailand applied Decision 4.1 in its valuation practices, and, if not, did Thailand intend to adopt the decision.

3.39 The Representative of Thailand stated that they would forward the US's follow-up question to their authorities in the capital and do their best to answer them in written form in due course.

3.40 The Committee took note of the statements and agreed to revert to the examination of this legislation at the next meeting. Any follow-up questions should be submitted to the Secretariat before 25 February 2005.

3.41 In concluding this agenda item, the Chairman urged those Members which had not yet notified their implementing legislation to do so as soon as possible.

(ii) *Notifications made by Developing Country Members*

3.42 The Chairman drew Member's attention to document G/VAL/2/Rev.19 which contained the updated lists of all Members who had invoked special and differential treatment provisions under the Agreement. In addition, he drew their attention to document G/VAL/W/76/Add.8 which contained an updated list of the active agreed extensions for the delay of the application of the Agreement or reservations to maintain a system of minimum values. He suggested that the Committee take note of the information contained in these two documents.

3.43 The Representative of the United States stated that two documents, G/VAL/2Rev.19 and G/VALW/76/Add.8 concerned the status of the decisions on the application of the Agreement by some developing country Members, namely El Salvador, Guatemala, Sri Lanka and Senegal, and She noted that with respect to these Decisions certain requirements were to be complied with. For example, Sri Lanka had to submit a work plan, which it had not submitted; Senegal were to submit a report by 30 September on the status of its implementation of established minimum values for the listed products, which they had not. Senegal was also obligated to publish information for determining the minimum values for the products listed by 30 June of this year and no information to that effect had been received. She further stated that El Salvador should have published information as required.

3.44 The representative of El Salvador stated that in August 2004 they had submitted, the data relating to data sources, methodology basis, criteria and other relevant information, under the decision approved by the General Council on 8 July 2002 in document WT/L/476. The information had been made available to the public from the 17 October 2002 on the website of the General Customs Directive of their country. She also clarified that the notifications submitted by El Salvador were contained in document WT/L/586-G/VAL/N4/SLV/2.

3.45 The representative of the United States thanked the delegation of El Salvador for submitting their report. She requested that an English version of the document be circulated.

3.46 The Chairman suggested that the Secretariat circulate an English translation of the El Salvador notification as soon as possible, and that the Secretariat would make contact with those Members concerned to update the information.

3.47 The Committee took note of the statements made and accordingly agreed to revert to these at the next meeting.

- *Extension of delay period*

3.48 The Committee noted that under the sub-heading "extension of delay period", there was no request pending at the moment. This would mean that all Members were implementing the Agreement.

- *Extension of Reservations under Minimum Values*

3.49 The Chairman stated that since the last meeting of the Committee, there had been one new request from Sri Lanka for extension under Para II of Annex III which was contained in document G/VAL/W/140. The committee, in its decision contained in document G/VAL/53, had allowed Sri Lanka to continue to use officially-established minimum values for the valuation for customs purposes, until 28 February 2005. Sri Lanka had now requested that she needed to continue with the minimum values for a period of 12 months from 1 March 2005. The request had been made only recently and interested Members were consulting informally on this request.

3.50 The Committee therefore agreed to revert to this agenda item at a later date.

- *Notifications made under Committee Decisions on delay extensions and minimum values*

3.51 The Chairman pointed out that under this sub-item, the Committee had to consider the notifications made under the Decisions concerning delay extensions and minimum value reservations. Guatemala (G/VAL/N/4/GTM/3) and El Salvador (WT/L/586-G/VAL/N/4/SLV/2) had made notifications under the decisions granting them minimum values, while the United Arab Emirates (G/VAL/N/4/ARE/1) had made a notification under the decision granting it a delay extension.

3.52 The representative of the European Communities thanked the UAE for the information submitted by them, and stated that at this stage it was important to note that they were now implementing the Agreement, looking beyond the technical issues mentioned as reasons for further preparation which in many cases would anyway be resolved. While the implementation of this Agreement had to be done with good and timely preparation it probably was not a great idea to posit implementation on the basis of certain tools which were not indispensable to apply the Agreement.

3.53 The representative of Canada thanked Guatemala, UAE and El Salvador in particular for their notifications and for the information they had provided. He felt that this information on the delay extensions or the minimum value reservations of the Agreement was important not just for reasons of transparency, but also important in terms of assisting the country concerned in continuing with its

reforms to put in conformity its legislation with the terms of the Agreement. Even though the UAE's notification did not necessarily follow requirements of the decision, it was still quite useful, as it revealed the measures taken by the Member, and, it also enabled other countries to assist with a view to making the legislation in conformity with the provisions of the Agreement. He supported the statement made by the United States (see paragraph 3.45 above), with respect to the reporting requirements that should be observed by the Members concerned, and updating of information by the Secretariat. He would like to see others also providing such information to the Secretariat.

3.54 The Chairman asked the Secretariat to write to those Members concerned reminding them of their reporting responsibilities.

3.55 The Committee took note of the statements made.

IV. INFORMATION ON THE APPLICATION OF DECISIONS OF THE COMMITTEE ON CUSTOMS VALUATION

4.1. 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. China and Turkey had notified their application of these two Decisions in documents G/VAL/N/3/CHN/1 and G/VAL/N/3/TUR/1 respectively. Document G/VAL/W/5/Rev.15 had been updated to include these two notifications.

4.2 The Committee took note of this information.

V. TECHNICAL ASSISTANCE

- *Information on Technical Assistance*

5.1 The Chairman explained the Members that under this item the Secretariat usually informed Members of the technical assistance activities carried out under the auspices of the WCO. Document G/VAL/8/Add.13 contained the most recent information, reported at the 18th Session of the Technical Committee, on technical assistance activities carried out by the WCO Secretariat or WCO Members.

5.2 The Committee took note of the information.

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

5.3 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. However, customs valuation technical assistance had now been incorporated in a new WTO wide program designed to streamline technical assistance requests into one annual technical assistance plan. In this connection, Members had noted the need to avoid having two parallel and repetitive exercises. The Committee on Trade and Development was in the process of finalizing the WTO Technical Assistance plan for 2005 contained in document WT/COMTD/W/133 and it was likely that the plan would be approved at its meeting scheduled for November 16. He added that due to limited resources there would be only be 3 regional or sub-regional seminars in customs valuation next year. Countries would be entitled to submit requests for ad hoc national activities, however, due to the limited resources each developing country could request only 2 ad hoc

seminars and LDCs may request 3, so it would be important for Members to carefully determine their priorities.

5.4 The Chairman also stated that at the last meeting of the committee, Members were encouraged to inform the Committee of technical assistance and capacity building activities that they were providing on bilateral or other fronts. The Committee had not received any notifications of new activities, but he looked forward to the Committee receiving them, either orally under this agenda item or in writing, in due course.

5.5 The representative of the European Communities emphasized that the technical assistance aspect of custom valuation still remained important for this Committee. He welcomed all initiatives taken by either WTO or WCO or any other international organizations which tried to keep a certain level of dynamism in the supply and management of technical assistance. While there was still a need for basic technical assistance, many countries including those who are relatively new to applying this Agreement, had moved on to some extent that there was perhaps a need for an intermediate level of technical assistance that would build on the countries' actual experience. He would be interested to hear experiences of donors or suppliers of technical assistance who had established programmes and delivery techniques that take this into account. Whereas we tended sometimes to see too much of the basic technical assistance, there was at this stage perhaps a need to move on, certainly for several countries that have done very well and have quite advanced their application of the Agreement.

5.6 While referring to the request for information, he stated that technical assistance on valuation may be part of more integrated programmes or complete customs management programmes, and sometimes it was difficult to differentiate or distinguish that part of an overall package. In the future it was also more likely that technical assistance on valuation would be part of larger delivery programmes, which were probably in the long-run a more effective means of delivering technical assistance in valuation. He appreciated the fact that this item remained on the agenda as it gave a chance to see if there were new things that would need to be said or done. He also noted that, some countries were particularly good as donors and what they were doing was certainly appreciated.

5.7 The Committee took note of the statements.

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

6.1 The Chairman recalled that in accordance with paragraph 18 of the Protocol of Accession of the People's Republic of China, the Committee was to report to the Council for Trade in Goods on the outcome of this Transitional Review Mechanism (TRM), which would then report to the General Council. The Committee had conducted its second TRM at the last meeting in October 2003, where China had explained the implementation of its commitments with regard to the Agreement on Customs Valuation and responded to the questions raised.

6.2 The Chairman reminded Members that China was content to cross-reference between Notification of National Legislation and this item (TRM) so as to avoid duplication of work and to avoid repeating earlier questions or answers, but that China wished to avoid questions on the same issues coming up under both Notification of National Legislation and the TRM. He also reminded members that for practical reasons, it had been agreed that if it became necessary, the TRM could be suspended and the discussion momentarily reverted back to the Notification of National Legislation agenda item. He also noted that China had submitted information required in Annex 1A to the Protocol of Accession of the People's Republic of China.

6.3 The representative of China explained its implementation of the Agreement on implementation of Article VII of GATT 1994, and the relevant accession commitment since the last transitional review. He stated that on 29 October 2003, the State Council of China amended the Regulations on Import and Export Tariffs of the People's Republic of China, which entered into force on 1 Jan 2004. The amendment of this piece of legislation led to some revisions of the structure and working concerning the part on customs valuation, so as to bring them into full conformity with the relevant provisions governing the procedure and methodologies of valuation set forth in the Customs Valuation Agreement.

6.4 He further stated that China had honoured its commitment under Paragraph 143 of the Working Party Report on the Accession of China. Since 11 December 2003, China had started to apply the provision of the Decision on the Treatment of Interest Charges in Customs Value of Imported Goods, and the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment. The application of the two decisions was notified to this Committee on 25 February 2004. To ensure smooth implementation of the two decisions, the customs authorities of China had solicited extensively the views from the importers and other stake holders of the business community, and had made careful preparations. So far the implementation of the two decisions had turned out to be pretty smooth.

6.5 He also added that prior to this session, China submitted to this Committee relevant information on valuation methods pursuant to Annex 1A of China's Accession Protocol, which offered a comprehensive account of their implementation efforts. Further information on this subject matter was also accessible through visiting the official website of China General Customs Administration at www.customs.gov.cn. He hoped that this presentation could help Members better understand the development of customs valuation administration in China, and that they were willing to continue the exchange with others on the issues of common interest.

6.6 The representative of the United States stated that as indicated in the Chairman's opening remark, the Committee had to submit a report on this process under the terms of the Chinese Accession Protocol. The US continued to hold the view that the TRM could be a useful exercise for both China and other WTO Members as the mechanism allowed them to exchange information, review implementation progress and clarify points of argument or disagreement. She added that the focus in the past year had been on obtaining clarification on China's regulations. The United States had submitted some questions under the notification for legislation and appreciated receiving responses from China, without prejudice to the requirement of the TRM exercise, and the views they might expect in future under the TRM item.

6.7 The Chairman proposed that the Secretariat prepare a short factual report, under his responsibility, referring to the minutes of the meeting for further detail, to be sent to the CTG.

6.8 The Committee so agreed and the TRM was concluded.

VII. REPORT OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS

7.1 The Chairman drew Members' attention to document G/VAL/W/135 which contained the draft report of the Committee to the Council for Trade in Goods. He asked Members for comments.

7.2 The representative of the United States stated that in addition to the separate report concerning the TRM, the TRM carried out in this session would be reflected in the overall report of the Committee.

7.3 The representative of Mexico stated that given the new situation on their notifications, the English version should have N/A or non-applicable written in the blank column next to Mexico's name.

7.4 The Chairman proposed that the Committee take note of all statements made and the Secretariat would revise the document to take the comments into account, including a reference to the fact that the TRM had been carried out in this session.

7.5 The Committee so agreed.

VIII. INDIA - INFORMATION ON CERTAIN ASPECTS OF THE EUROPEAN COMMUNITIES VALUATION POLICY

8.1 The Chairman recalled that it was agreed to revert to this item at this meeting. The European Communities' replies to the questions posed by Brazil (G/VAL/W/122), had been circulated in document G/VAL/W/131.

8.2 The representative of Brazil stated that the agenda item was of great interest to them and was still being reviewed in the capital. He requested that this agenda item be reverted to at the next meeting.

8.3 The representative of the European Communities stated that Brazil had received full responses to their questions, contained in document G/VAL/M/131. He wondered whether such long delays had to exist between the response to questions and reaction to the response. Although Brazil had said that they had a great interest in this issue, it was a minor technical regulation and ten years old. Members also have had a pretty good exchange of information on this matter, taking further into account the information provided to India. The coverage of the issue had been comprehensive, and hardly much more could be said about it. There had not been any hint of a problem with respect to customs valuation. He then asked Brazil to reflect a bit further to see if this interest could really be sustained.

8.4 The representative of Brazil stated that if in the mean time they received from their capital any indication that they did not want to revert to the issue, they would immediately inform the European Communities and the Secretariat.

8.5 The Committee agreed to revert to this item at the next meeting. Any follow-up questions should be submitted to the Secretariat before 25 February 2005.

IX. FOURTH, FIFTH, SIXTH, SEVENTH, EIGHTH, NINTH AND TENTH ANNUAL REVIEWS OF THE IMPLEMENTATION AND OPERATION OF THE CUSTOMS VALUATION AGREEMENT

9.1 The Chairman recalled that at the last meeting, the Committee took note of the six documents containing the Fourth through Ninth Annual Reviews in documents G/VAL/W/29, G/VAL/W/43, G/VAL/W/77, G/VAL/W/89, G/VAL/W/109 and G/VAL/W/124. It had been agreed that this matter would be referred to this meeting. The Committee also had before it today the Tenth Annual Review in G/VAL/W/136.

9.2 The representative of India informed the Committee that her delegation was engaged in the examination of the issues contained in these annual reports, and was reviewing this matter in consultation with the capital, and would like to revert to it in the next meeting.

9.3 The Committee took note of the statements made and agreed to revert to the Fourth through to the Tenth Annual Review at the next meeting.

X. PRESHIPMENT INSPECTION

10.1 The Chairman recalled that, following adoption of the final report of the Working Party on Preshipment Inspection (PSI) in document G/L/300, the General Council agreed that future monitoring of the Agreement on PSI should be undertaken initially by the Customs Valuation Committee, where PSI would be a standing agenda item. At the last 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 this Agreement "at the end of the second year from the date of entry into force of the WTO Agreement on PSI and every three years thereafter..." He further recalled that the first review was carried out from 1996 through 1999, and asked the Committee to consider, for discussion, two questions: whether it was desirable to carry out a second review of the Agreement on PSI, given the obligation under this 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.

10.2 It was noted that the requirement for the review arose from the mandate in Article 6 of the Agreement on PSI and it had not in any way been affected by the first Review nor the reports of the Working Party that carried out the Review. In reply to the second question about whether this Committee had a mandate to carry out this Review, it was noted that one of the recommendations of the Working Party was that "future monitoring of the Agreement (on PSI) should be undertaken initially by the Customs Valuation Committee, and that PSI should be a standing agenda item." This recommendation had been subsequently endorsed by the General Council. The Committee had therefore agreed at the last meeting that the Chairman should carry out informal consultations on the interpretation of the word "initially" used in the context of the recommendation of the Working Party on Preshipment Inspection contained in its report to the General Council in document G/L/300.

10.3 The Chairman explained to Members that, an earlier draft of the final report of the Working Party to the General Council contained in document G/PSI/WP/W/24 stated in paragraph 23, that 'The Working Party further recommends that future monitoring of the Agreement should be undertaken initially by the Customs Valuation Committee, and that PSI should be a standing agenda item. In the next review of the Agreement, as foreseen under Article 6 of the Agreement, Members will decide whether monitoring of the Agreement should remain in this Committee or be moved to the Market Access Committee.' The final report contained in document G/L/300 in paragraph 23, stated that 'The Working Party further recommends that future monitoring of the Agreement should be undertaken initially by the Customs Valuation Committee, and that PSI should be a standing agenda item.' He noted that the last part of paragraph 23, referring to the next review and the Market Access Committee had been deleted while the word 'initially' in the first part of paragraph 23, remained in the final report.

10.4 The Chairman then encouraged Members to submit their ideas to the Secretariat for circulation before 25 February 2005, for discussion at the next Committee meeting.

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

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

(i) *Paragraph 8.3 of document WT/MIN/(01)/17*

11.1 The Chairman recalled that our mandate, as set out in paragraph 8.3 of the Implementation Decision of the Doha Ministerial Declaration, was 'to identify and assess practical means' to address concerns on the accuracy of declared values, including 'the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.' He also recalled, that the General Council at its meeting in December 2002 authorized the Committee to continue its work under the existing mandate and to report back to the General Council once its work had been completed. The General Council Decision adopted on 1 August 2004 (WT/L/579) had instructed the Trade Negotiations Committee, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority.

11.2 The Technical Committee on Customs Valuation had submitted *Guidelines on the development and use of a national valuation database as a risk assessment tool*, as a complement to its responses submitted in May 2003(G/VAL/54) to the terms of reference made to it in document G/VAL/51 regarding concerns on the accuracy of the declared value. These guidelines had been circulated in document G/VAL/54/Suppl.1.

11.3 The representative of India recalled the discussions that had been taking place in this Committee, and the formal and the informal consultations which had been held by the former Chairman, which had worked well and were coming to some sort of constructive solution. She had received information from her authorities that they had tried to make use of the procedure or the mandate which had been given to Members by Ministers, as contained in paragraph 8.3 to seek information from certain custom administrations. They had sought information in seven cases this year in line with the WCO guide, but no information had been forthcoming. This had been communicated by her authorities as a response to a questionnaire which had been circulated by the WCO. She understood that the Chairman would be continuing to undertake informal consultations in the matter, and they could revert to it when he started this process.

11.4 The Chairman stated that he intended to carry out informal consultations, as proposed, among interested members.

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

XII. OTHER BUSINESS

(i) *Date of the next meeting*

12.1 The Chairman informed Members that the next meeting of the Committee was scheduled for 5 April 2005.

12.2 The meeting was adjourned.

ANNEX I

Report to the Committee on Customs valuation on the work of the Technical Committee on Customs Valuation and on technical assistance.

(October, 2004)

Since the last meeting of the Committee on Customs Valuation, the Technical Committee on Customs Valuation (Technical Committee) has held two sessions i.e. the 18th (29 March – 2 April 2004) and the 19th (18 – 21 October 2004).

This report pertains to the results of these two sessions and to the WCO Secretariat's programme of technical assistance in the field of Customs valuation.

Guidelines on the development and use of a National Valuation Database as a Risk Assessment Tool.

You will certainly recall that within the framework of the Terms of Reference assigned to the Technical Committee relating to concerns as to the accuracy of the declared value, the Committee on Customs Valuation had asked the Technical Committee to intensify its efforts towards finalising the Guidelines on Databases.

Thus, on the basis of the Draft Guidelines on the development and use of a national valuation database as a risk assessment tool examined at the 17th session, the Technical Committee accelerated its work and dealt with this matter as a priority item at its 18th session. The Technical Committee was able to overcome any remaining divergence of opinion and reach a consensus on a certain number of questions. Examination of the Draft Guidelines was therefore concluded at the 18th session.

After adoption by the WCO Council at its June 2004 sessions, the text of the Guidelines on the development and use of a national valuation database as a risk assessment tool was transmitted by the Chairperson of the Technical Committee to the Chairman of the Committee on Customs Valuation, supplementing the response to the aforementioned Terms of Reference that the WCO Technical Committee on Customs Valuation had sent to the WTO Committee on Customs Valuation in May 2003.

Technical and Administrative Matters

At the 18th and 19th sessions, the Technical Committee examined technical questions submitted by Members; i.e. a question submitted by Uganda concerning "importations by sole agents, sole distributors and sole concessionaires", a question submitted by the European Communities relating to the expression "sold for export" and a question submitted by Colombia relating to "the valuation treatment of price influenced importations from related parties". In this regard, the Technical Committee expressed its opinion on the question raised by Colombia and decided to continue examination of the questions raised by Uganda and the EC at the 20th session.

Members of the Technical Committee also discussed the importance of the question concerning royalties and license fees and the need to have more detailed discussions thereon. The Technical Committee thus decided to pursue examination of this question at the 20th session

The Technical Committee also examined two administrative questions relating to the adoption and application of the Agreement i.e. revision of the Valuation Compendium and of the Customs Valuation Control Handbook. Following examination of these questions the Technical Committee adopted the draft Topical Index which will be incorporated in the Customs Valuation Compendium and decided to review the Customs Valuation Control Handbook and to continue discussion on the way in which to carry out this review and the scope thereof at the 20th session.

Technical Assistance and Capacity Building.

Since our last report to the Committee on Customs Valuation, the WCO Secretariat has conducted a national capacity building and technical assistance mission in Malaysia and a regional workshop in Indonesia. In addition four regional seminars intended primarily for Members in the Europe region were organised at the WCO's Regional Training Centres in Baku, Budapest and Moscow.

Theme Meetings

The first two days of the Technical Committee's 18th session were devoted to the Fourth Theme Meeting the subject of which was "In-depth discussion on Articles 1, 8 and 15 of the WTO Valuation Agreement". Representatives from developed and developing countries and the ICC gave presentations and participated in panel discussions on four topics i.e. "Article 1: Working with related party transactions"; Article 15: Sole agents, sole distributors and sole concessionaires; Article 8.1(b): "assists" and its application; and Article 8.1(c): Royalties and license fees and its application". The theme meeting led to extremely useful and constructive deliberations on some of the most complex issues relating to interpretation and application of the Agreement.

At the 19th session the Technical Committee examined and confirmed the programme for the theme meeting which will take place at the 20th session. The topics to be discussed are "Transfer Pricing and Valuation of Software".

WCO e-learning programme

In addition to the traditional material used for capacity building, the WCO Secretariat has developed an interactive training course on Customs valuation. This course is part of the WCO e-learning programme and contains lessons dealing with the provisions of the WTO Valuation Agreement and numerous multimedia products such as quizzes and interactive practical cases.

Elections

At the 18th session, the Technical Committee proceeded with the election of officers. Madame H. Azizi (Kingdom of Morocco) was thus re-elected for a second term as Chairperson and Mr. O. Mbengue (Senegal) and Mr. I. Cremer (United Kingdom) were elected as Vice-Chairmen.
