

## ARTICLE VII

### VALUATION FOR CUSTOMS PURPOSES

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#### I. TEXT OF ARTICLE VII AND INTERPRETATIVE NOTE AD ARTICLE VII

##### Article VII

##### *Valuation for Customs Purposes*

1. The contracting parties recognize the validity of the general principles of valuation set forth in the following paragraphs of this Article, and they undertake to give effect to such principles, in respect of all products subject to duties or other charges\* or restrictions on importation and exportation based upon or regulated in any manner by value. Moreover, they shall, upon a request by another contracting party review the operation of any of their laws or regulations relating to value for customs purposes in the light of these principles. The CONTRACTING PARTIES may request from contracting parties reports on steps taken by them in pursuance of the provisions of this Article.

2. (a) The value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.\*

(b) “Actual value” should be the price at which, at a time and place determined by the legislation of the country of importation, such or like merchandise is sold or offered for sale in the ordinary course of trade under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favourable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.\*

(c) When the actual value is not ascertainable in accordance with sub-paragraph (b) of this paragraph, the value for customs purposes should be based on the nearest ascertainable equivalent of such value.\*

3. The value for customs purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export, from which the imported product has been exempted or has been or will be relieved by means of refund.

4. (a) Except as otherwise provided for in this paragraph, where it is necessary for the purposes of paragraph 2 of this Article for a contracting party to convert into its own currency a price expressed in the currency of another country, the conversion rate of exchange to be used shall be based, for each currency involved, on the par value as established pursuant to the Articles of Agreement of the International Monetary Fund or on the rate of exchange recognized by the Fund, or on the par value established in accordance with a special exchange agreement entered into pursuant to Article XV of this Agreement.

(b) Where no such established par value and no such recognized rate of exchange exist, the conversion rate shall reflect effectively the current value of such currency in commercial transactions.

(c) The CONTRACTING PARTIES, in agreement with the International Monetary Fund, shall formulate rules governing the conversion by contracting parties of any foreign currency in respect of which multiple rates of exchange are maintained consistently with the Articles of Agreement of the International Monetary Fund. Any contracting party may apply such rules in respect of such foreign currencies for the purposes of paragraph 2 of this Article as an alternative to the use of par values. Until such rules are adopted by the CONTRACTING PARTIES, any contracting party may employ, in respect of any such foreign currency, rules of conversion for the purposes of paragraph 2 of this Article which are designed to reflect effectively the value of such foreign currency in commercial transactions.

(d) Nothing in this paragraph shall be construed to require any contracting party to alter the method of converting currencies for customs purposes which is applicable in its territory on the date of this Agreement, if such alteration would have the effect of increasing generally the amounts of duty payable.

5. The bases and methods for determining the value of products subject to duties or other charges or restrictions based upon or regulated in any manner by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the value for customs purposes.

Interpretative Note *Ad* Article VII from Annex I

*Paragraph 1*

The expression "or other charges" is not to be regarded as including internal taxes or equivalent charges imposed on or in connexion with imported products.

*Paragraph 2*

1. It would be in conformity with Article VII to presume that "actual value" may be represented by the invoice price, plus any non-included charges for legitimate costs which are proper elements of "actual value" and plus any abnormal discount or other reduction from the ordinary competitive price.

2. It would be in conformity with Article VII, paragraph 2 (b), for a contracting party to construe the phrase "in the ordinary course of trade ... under fully competitive conditions", as excluding any transaction wherein the buyer and seller are not independent of each other and price is not the sole consideration.

3. The standard of "fully competitive conditions" permits a contracting party to exclude from consideration prices involving special discounts limited to exclusive agents.

4. The wording of sub-paragraphs (a) and (b) permits a contracting party to determine the value for customs purposes uniformly either (1) on the basis of a particular exporter's prices of the imported merchandise, or (2) on the basis of the general price level of like merchandise.

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**I. INTERPRETATION AND APPLICATION OF ARTICLE VII****A. SCOPE AND APPLICATION OF ARTICLE VII****1. Paragraph 1****(1) “to give effect”**

Until the Review Session of 1954-55, the undertaking in the first sentence of Article VII was qualified by the phrase “at the earliest practicable date” and an interpretative note to that phrase. The Review Session Working Party on “Schedules and Customs Administration” recommended deletion of this phrase and its note, “on the assumption that a general provision will be made allowing time for governments to bring their legislation into conformity with the rules”.<sup>1</sup>

**(2) “or other charges”**

The Review Working Party also recommended the addition of the present Note *Ad* Paragraph 1 stating that “The expression ‘or other charges’ is not to be regarded as including internal taxes or equivalent charges imposed on or in connexion with imported products”. The Working Party report notes:

“The new interpretative note to paragraph 1, concerning the words ‘or other charges’, is intended to make it clearly understood that the wording does not require internal taxes (or their equivalents) which are charged on imported goods to be assessed on the same basis as that established for the purpose of charging customs duties. While some countries assess internal taxes on imported goods on the customs value or the customs value inclusive of duty, certain countries establish the value on which such internal taxes are charged on a different basis, being the same basis as is adopted for the charge of such internal taxes on domestically produced goods. Moreover, Article VII cannot be held to impose any commitment in relation to internal taxes, over and above those contained in Articles I and III”.<sup>2</sup>

**(3) “laws or regulations”**

During the Ninth (Review) Session in 1954-55, a Technical Working Party also examined laws and regulations of contracting parties concerning customs valuation. Its Report, “Comparative Study of Methods of Valuation for Customs Purposes”,<sup>3</sup> describes the main systems of customs valuation at the time in the perspective of the criteria in Article VII, and presents a summary table of replies submitted by governments to a questionnaire.

See also the Agreement Relating Principally to Chemicals, supplementary to the Geneva (1967) Protocol to the General Agreement<sup>4</sup> which was concluded in the Kennedy Round but did not enter into force.

Customs valuation laws and regulations of parties to the Agreement on the Implementation of Article VII, discussed at page 263 below, are reviewed in the Committee on Customs Valuation.

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<sup>1</sup>L/329, adopted 26 February 1955, 3S/205, 211-212, para. 12. As part of the results of the Review Session it was envisaged that the General Agreement would be brought into force on a definitive basis and in that connection a blanket reservation on acceptance for pre-existing inconsistent legislation was agreed to; see discussion of this reservation in the chapter on Article XXVI.

<sup>2</sup>3S/212, para. 13.

<sup>3</sup>G/88, adopted 2 March 1955, 3S/103; see also the 1953 interim report on Valuation for Customs Purposes (G/57, 2S/52).

<sup>4</sup>15S/8.

## 2. Paragraph 2

### (1) “actual value” versus “arbitrary or fictitious values”

See Interpretative Notes 1 and 4 *Ad* Paragraph 2.

The Report of the Working Party on the “Accession of El Salvador” discusses customs valuation as follows:

“Some members noted that Article VII of the General Agreement which set a basic GATT obligation prohibited the use of indicative, normal or official prices for the valuation of imports and requested that El Salvador commit to apply, in practice, and from the date of accession, the provisions of Articles VII and X in its customs practices and procedures, including customs valuation. In the view of these members, if this was not the case, El Salvador’s request for accession might be premature. These members added that ... El Salvador should also state clearly that its customs officials will give first priority in determining customs value to the “actual value” of imports, as provided for in Article VII:2 of the General Agreement, and will avoid the use of administratively determined or constructed prices for customs valuation purposes ...”

“The representative of El Salvador ... confirmed ... that his Government would give first priority in determining customs value to the ‘actual value’ of imports, as provided for in Article VII:2 of the General Agreement, and would avoid the use of administratively determined or constructed prices for customs valuation purposes”.<sup>5</sup>

The Panel Report on “Exports of Potatoes to Canada” examined the application of a “value for duty” on potatoes under the Canadian Customs Act on 16 October 1962, at a level equal to the amount determined to be the average value, weighted as to quantity, at which potatoes were imported during the three-year period immediately preceding the date of shipment to Canada. Under this Act the difference between the lower export value and the “value for duty” would be levied by the Canadian customs authorities as “dumping duty”. The United States claimed that this determination of the value for duties of fresh potatoes constituted a “determination based on arbitrary or fictitious value” inconsistent with the provisions of Article VII:2(a).

“The Panel, having heard the points of view of the parties concerned, considered that the concept of value for duty as applied presently on imports of potatoes under the Canadian Customs Act was different from the concept of value for customs purposes, which the CONTRACTING PARTIES had in mind in drafting the provisions of Article VII. The Panel, therefore, did not consider that the provisions of Article VII were relevant in the context of its examination”.<sup>6</sup>

The Panel also found that the requirements of Article VI were not fulfilled, and concluded that the measure introduced by Canada amounted to the imposition of an additional charge above the bound import duty inconsistent with Article II:1(a).<sup>7</sup>

#### (a) *Government contracts*

The Charter text corresponding to the first Interpretative Note to Article VII:2 was amended during the Havana Conference “so as to provide expressly for the presumption that contract prices may represent the basis for establishing ‘actual values’ in the case of government contracts in respect of primary products”.<sup>8</sup> This amendment was not brought into the General Agreement.

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<sup>5</sup>L/6771, adopted on 12 December 1990, 37S/9, 15, paras. 19-20.

<sup>6</sup>L/1927, adopted on 16 November 1962, 11S/88, 93, para. 16.

<sup>7</sup>*Ibid.* para. 18. See also the material on this dispute under Article VI. See also the table of Article XIX actions for an invocation by Canada of Article XIX with regard to a later imposition of “values for duty” in respect of imports of potatoes into Western Canada.

<sup>8</sup>Havana Reports, p. 76, para. 32.

*(b) Valuation according to fixed values*

During discussions at the Havana Conference on Article 35 of the Charter (corresponding to GATT Article VII), “it was revealed that in certain countries it had been the practice to apply *ad valorem* tariffs to established values of goods which remain fixed for various periods of time. It was agreed that, in such cases, the *ad valorem* rates are, in practical result, the equivalent of specific duties so long as the established values of goods are not changed. It was agreed that a note recognizing this fact should be appended to paragraph 3 [corresponding to Article VII:2]. However, it was agreed ... that it would not, and should not, be compatible with the letter or spirit of the Article to accept the principle of variable schedules of ‘fixed values’ for products subject to *ad valorem* rates of duty”.<sup>9</sup> The text of the note added was as follows:

“If on the date of this Charter a Member has in force a system under which *ad valorem* duties are levied on the basis of fixed values the provisions of paragraph 3 of Article 35 shall not apply:

- “1. in the case of values not subject to periodical revision in regard to a particular product, as long as the value established for that product remains unchanged;
- “2. in the case of values subject to periodical revision, on condition that the revision is based on the average ‘actual value’ established by reference to an immediately preceding period of not more than twelve months and that such revision is made at any time at the request of the parties concerned or of Members. The revision shall apply to the importation or importations in respect of which the specific request for revision was made, and the revised value so established shall remain in force pending further revision”.<sup>10</sup>

This note was not brought into the General Agreement. It was also noted in the summary record of the discussions at Havana that the system of tariff valuation in force in India “for non-ordinary products was in order insofar as the actual value could not be really ascertained under paragraph 3(b) [GATT VII:2(b)] and that paragraph 3(c) [GATT VII:2(c)] met the problem of India in respect of those particular products for which they found it necessary periodically to fix a value”.<sup>11</sup>

The 1955 Report of the Technical Working Party on “Comparative Study of Methods of Valuation for Customs Purposes” notes concerning the system of fixed values: “This question was also discussed in the Working Party on Valuation at the eighth session of the CONTRACTING PARTIES in October 1953. The discussion in that Working Party showed that the system of fixed values as operated by India and Pakistan was not inconsistent with the principles of paragraph 2(c) of Article VII”.<sup>12</sup>

During the Review Session of 1954-55, the idea of inserting an interpretative note similar to that annexed to the Havana Charter was again examined in the Review Working Party on Schedules and Customs Administration. The suggestion was rejected because of the difficulties of drafting a suitable provision and also because contracting parties then using the fixed values system had not suffered any disability from the absence of such an interpretative Note: the Working Party Report stated that “... the systems practised in Chile, India and Pakistan have been closely examined on a number of occasions and ... it is recognized that they are not inconsistent with the General Agreement”.<sup>13</sup>

***(2) “in the ordinary course of trade ... under fully competitive conditions”***

See Interpretative Notes 2 and 3 to paragraph 2.

<sup>9</sup>Havana Reports, pp. 75-76, para. 31.

<sup>10</sup>Havana Charter, Interpretative Note *Ad* Article 35 .

<sup>11</sup>E/CONF.2/C.3/SR.30, p.7.

<sup>12</sup>G/88, adopted on 2 March 1955, 3S/103, 109, para. 3.

<sup>13</sup>L/329, adopted on 26 February 1955, 3S/205, 212-213, para. 15; see also discussion of these valuation systems in the Report of the Technical Working Party on “Comparative Study of Methods of Valuation for Customs Purposes” in G/88, adopted on 2 March 1955, 3S/103, 108-109, para. 3.

### 3. Paragraph 3: “any internal tax”

The Report of the Review Working Party on “Schedules and Customs Administration” records that the Technical Group on Customs Administration agreed

“that the words ‘internal tax’ read in conjunction with the words ‘from which the imported product has been exempted or has been or will be relieved by means of refund’ mean only (i) internal taxes of the kind which are levied directly on the goods exported (or directly on the materials going into the manufacture of such goods), as distinct from (ii) other taxes (income tax, etc.). It follows that the obligation contained in paragraph 3, is limited to internal taxes of the kind mentioned in (i) above; so far as concerns taxes of the kind falling within (ii) above, there is no obligation upon contracting parties and, equally, there is nothing to prevent them from giving imported goods the benefit of more liberal provisions”.<sup>14</sup>

See also Articles II:2(a), VI:4 and the Interpretative Note to Article XVI of the General Agreement.

### 4. Paragraph 4

#### (1) *Par values and conversion rates of exchange*

In discussions at the Geneva session of the Preparatory Committee it was agreed that “cases in which an alteration in the rate of exchange, with or without par value, is introduced are adequately covered by paragraphs 4(a) and (b)”.<sup>15</sup>

Article IV of the original Articles of Agreement of the International Monetary Fund required each member of the Fund to state a par value for its currency in terms of either gold or U.S. dollars of a fixed gold value, as part of a system of fixed exchange rates. A change in the par value of a member's currency could be made only after consultation with the Fund. As revised in 1978, Article IV no longer requires the stating of par values and instead provides that “each member undertakes to collaborate with the Fund and other members to assure orderly exchange arrangements and to promote a stable system of exchange rates”.<sup>16</sup>

The present text of paragraph 4 was agreed during the Review Session of 1954-55. The Report of the Review Working Party on “Schedules and Customs Administration” notes in this connection that:

“The amendments to paragraph 4(a) and (b), to use the words ‘par value as established’ and ‘rate of exchange recognized’ by the Fund, are intended to cover certain exchange situations which are likely to arise in practice and which are not provided for in the present text. For example, in the case of Canada the established par value accepted by the Fund is no longer the effective rate, and the Fund recognizes the fluctuating rate for its own accounting purposes. This type of exchange situation will be covered by the amended text”.<sup>17</sup>

Article IV of the IMF Articles, as revised in 1978, does not refer to “recognition” of a Fund member's rate of exchange. However, Article VII:4(b) of the General Agreement provides that “Where no such established par value and no such recognized rate of exchange exist, the conversion rate shall reflect effectively the current value of such currency in commercial transactions”.

<sup>14</sup>L/329, adopted on 26 February 1955, 3S/205, 213-214, para. 17.

<sup>15</sup>EPCT/A/SR.40(2), p. 16; EPCT/154, p. 25 (note to para. 5).

<sup>16</sup>Section 4 of Article IV as revised provides that “The Fund may determine, by an 85 per cent majority of the total voting power, that international economic conditions permit the introduction of a widespread system of exchange arrangements based on stable but adjustable par values. ... Upon making such determination, the Fund shall notify members that the provisions of Schedule C [on Par Values] apply”. Articles of Agreement of the International Monetary Fund, 2 UNTS 39 (1947) as amended April 1, 1978.

<sup>17</sup>L/329, adopted on 26 February 1955, 3S/205, 214, para. 18.

See also the material on Article II:6 in this Index. Concerning exchange matters, special exchange agreements, and relations with the Fund, see Article XV.<sup>18</sup>

**(2) “date of this Agreement”**

Article XXVI:1 provides that “The date of this Agreement shall be 30 October 1947”. This date applies for the obligations under Article VII:4(d) of the original contracting parties; of the former territories of the original contracting parties which, after attaining independence or commercial autonomy, succeeded to contracting party status under Article XXVI:5(c); and of Chile. When the modalities of accession to the General Agreement were first considered, at the Third Session in Annecy in 1949, the Working Party which drafted the Annecy Protocol of Terms of Accession decided to use instead the date of the Havana Final Act, 24 March 1948, and this approach was followed for the next group of accessions in the Torquay Protocol of 1951.<sup>19</sup> Since the next accession thereafter, which was the accession of Japan in 1955, the standard terms in accession protocols have provided that the “date of this Agreement” for the purposes of Article VII:4(d) shall be the date of the protocol of accession or (where the acceding government had previously acceded provisionally) the date of the declaration on provisional accession.<sup>20</sup>

**5. Paragraph 5**

**(1) “The bases and methods ... should be stable”**

During the Review Session, the Review Working Party on Schedules and Customs Administration considered a proposal to replace the words “the bases ... should be stable” by the words “the system ... should not constitute an obstacle to the rapid clearance of merchandise, should protect honest importers from unfair competition in the field concerned, should as far as possible be based on trade documents ...”. The Report of the Working Party notes that members “expressed sympathy with the ideas underlying this proposal, but did not find it practicable to recommend the amendment. It was desired particularly to retain the requirement that valuation systems shall be stable”.<sup>21</sup>

**(2) “sufficient publicity”**

See also Article X.

**B. RELATIONSHIP BETWEEN ARTICLE VII AND OTHER ARTICLES**

**1. Article II**

See the Panel Report on “Exports of Potatoes to Canada” above at page 260.

**2. Article XV**

See Article VII:4.

**C. AGREEMENT ON IMPLEMENTATION OF ARTICLE VII**

The Agreement on Implementation of Article VII of the General Agreement, negotiated during the Tokyo Round of multilateral trade negotiations, was signed on 12 April 1979<sup>22</sup> and entered into force on 1 January 1981. The Protocol to the Agreement on Implementation of Article VII (“Customs Valuation

<sup>18</sup>Concerning multiple rates of exchange, see the 19 December 1947 Memorandum on decisions by the Executive Board of the Fund on “Multiple Currency Practices”, reprinted as an addendum to the Report of the Review Working Party on “Quantitative Restrictions,” L/332/Rev.1 and Addenda, adopted on 2, 4 and 5 March 1955, 3S/170, 200-205.

<sup>19</sup>Annecy Protocol, I/81, para. 5(b); Torquay Protocol, dated 21 April 1951, I/86, 88, para. 5(b).

<sup>20</sup>E.g. Protocol for the Accession of Bolivia, L/6562, 37S/5.

<sup>21</sup>L/329, adopted on 26 February 1955, 3S/205, 214, para. 19.

<sup>22</sup>On the drafting history, see documents listed in TA/INF/1/Rev.8, p. 61-68. The text of the Agreement and the Protocol appear at 26S/116.

Protocol”), done on 1 November 1979, provided that upon entry into force of the Agreement the provisions of the Protocol would be deemed to be part of the Agreement.

The Agreement sets out five valuation methods, which are ranked in a hierarchical order to be followed by customs administrations of parties to the Agreement. The primary basis for customs value under the Agreement is “transaction value” as defined in Article 1: “the price actually paid or payable for the goods when sold for export to the country of importation”, subject to certain specified adjustments. When the customs value cannot be determined under the provisions of Article 1, there should normally be a process of consultation between the customs administration and the importer with a view to arriving at a basis of value under Article 2 (transaction value of identical goods) or Article 3 (transaction value of similar goods). When the customs value cannot be determined on this basis, resort may be made to deductive value (Article 5) or computed value (Article 6). Article 7 provides a fall-back method:

“1. If the customs value of the imported goods cannot be determined under the provisions of Articles 1 to 6, inclusive, the customs value shall be determined using reasonable means consistent with the principles and general provisions of this Agreement and of Article VII of the General Agreement and on the basis of data available in the country of importation.

“2. No customs value shall be determined under the provisions of this Article on the basis of:

“(a) the selling price in the country of importation of goods produced in such country;

“(b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;

“(c) the price of goods on the domestic market of the country of exportation;

“(d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 6;

“(e) the price of the goods for export to a country other than the country of importation;

“(f) minimum customs values; or

“(g) arbitrary or fictitious values”.

Annex I to the Agreement provided extensive interpretative notes to its provisions. The Protocol to the Agreement provides for the possibility of reservations by developing countries to certain provisions of the Agreement; a number of acceptances have been accompanied by such reservations. Article 21 of the Agreement permitted a developing country party to the Agreement to delay application of its provisions for five years from the date of entry into force of the Agreement with respect to it; the Protocol provided for the possibility of further extension of this period of delay. Article 21 also permitted developing country parties a further delay of three years in application of certain provisions of the Agreement. A list of acceptances of the Agreement appears in the Appendix at the end of this book, and indicates those acceptances accompanied by reservations.

Article 18 of the Agreement established two committees: a Committee on Customs Valuation composed of representatives of the parties, and serviced by the GATT Secretariat, and a Technical Committee on Customs Valuation under the auspices of the Customs Co-operation Council. The Committee has discussed the implementation and application of the Agreement by its parties, including difficulties encountered by developing countries in implementation, the use of preshipment inspection companies in customs valuation, and the shifting of the burden of proof in cases where customs administrations have reasons to doubt the truth or accuracy of the declared value.<sup>23</sup> The Committee has made a number of decisions regarding its working procedures and the administration of the Agreement.<sup>24</sup>

<sup>23</sup>On preshipment inspection, see VAL/W/41-44, VAL/M/17, VAL/M/19-22; on the burden of proof see statement of India at



The Committee adopted two decisions in 1984 regarding the interpretation of the Agreement: decisions in 1984 on “Treatment of Interest Charges in the Customs Value of Imported Goods”<sup>25</sup> and on “Valuation of Carrier Media Bearing Software for Data Processing Equipment”.<sup>26</sup> The Committee has also adopted agreed interpretations of the word “undertaken” used in Article 8.1(b)(iv) of the Agreement;<sup>27</sup> the terms “development” in English, “travaux d'étude” in French and “creación y perfeccionamiento” in Spanish in Article 8.1(b);<sup>28</sup> and has agreed to rectify the French text of paragraph 1 of the Note to Article 2 and the Note to Article 3.<sup>29</sup> The Committee has also discussed the linguistic consistency of the three authentic language texts of the Agreement. Concerning the Committee's activities, see its Annual Reports and the Secretariat Background Documents for the annual reviews of the implementation and operation of the Agreement.<sup>30</sup>

The Technical Committee's terms of reference in Annex II of the Agreement provide for it to, *inter alia*, “examine specific technical problems arising in the day-to-day administration of the customs valuation systems of Parties and to give advisory opinions on appropriate solutions based upon the facts presented; to study, as requested, valuation laws, procedures and practices as they relate to this Agreement and to prepare reports on the results of such studies; to prepare and circulate annual reports on the technical aspects of the operation and status of this Agreement; to furnish such information and advice on any matters concerning the valuation of imported goods for customs purposes as may be requested by any Party or the Committee. Such information and advice may take the form of advisory opinions, commentaries or explanatory notes”. The Technical Committee has issued many instruments setting out information and advice (including advisory opinions, commentaries, explanatory notes, case studies or studies).<sup>31</sup> The Technical Committee has also issued reports on national practices with regard to, *inter alia*, treatment of interest for deferred payment,<sup>32</sup> and treatment of valuation of computer software.<sup>33</sup>

The negotiation of the Agreement on Implementation of Article VII followed substantial previous work in this area. In the Kennedy Round of multilateral trade negotiations, the Agreement Relating Principally to Chemicals, supplementary to the Geneva (1967) Protocol to the General Agreement, was negotiated, and included certain provisions on valuation.<sup>34</sup> However, this Agreement was not implemented.

The WTO Agreement includes in its Annex 1A a new Agreement on Implementation of Article VII, which constitutes essentially a rectified text of the 1979 Agreement and the Customs Valuation Protocol. The Final Act of the Uruguay Round also includes two Decisions relating to customs valuation: the Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value, and the Decision on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionnaires.

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VAL/W/51, VAL/M/21, VAL/M/22, and Secretariat Note at MTN.GNG/NG8/W/19.

<sup>24</sup>For a complete list of the decisions of the Committee, see G/VAL/W/1, “Decisions Adopted by the Tokyo Round Committee on Customs Valuation”, dated 28 April 1995.

<sup>25</sup>VAL/6/Rev.1, adopted on 26 April 1984, 31S/273 (rectified (French and Spanish only) on 24 Committee 1984, VAL/M/10); see also VAL/9+Add. 1-6. See also VAL/M/9, VAL/M/10, VAL/W/8, VAL/W/10, VAL/W/13+Revs. 1-3, VAL/W/16, VAL/W/34+Revs.1-5.

<sup>26</sup>VAL/8, adopted on 24 September 1984, 31S/274; see also VAL/8/Add.1, Chairman's statement in connection with this decision, reprinted at 30S/274; see also VAL/M/10, VAL/W/7, VAL/W/11, VAL/W/14+Rev.1, VAL/W/16, VAL/11+Add.1-7..

<sup>27</sup>VAL/M/6, adopted on 3 March 1983, 30S/22.

<sup>28</sup>Interpretation adopted on 9-10 May 1985, VAL/M/13, paras. 37-41; see also VAL/M/8, para. 4, VAL/M/9, paras. 30-37, VAL/M/11, paras. 37-41, VAL/W/24, VAL/W/24/Rev.1

<sup>29</sup>VAL/M/26, para. 24, VAL/W/49/Add. 4.

<sup>30</sup>See Reports at 28S/40, 29S/55, 30S/56, 31S/275, 32S/174, 33S/216, 34S/208, 35S/362, 36S/440, 37S/302, 38S/89, 39S/396; background documents at VAL/W/4/Rev.1, VAL/W/12/Rev.1, VAL/W/21/Rev.1, VAL/13, VAL/19, VAL/28, VAL/35, VAL/37, VAL/39, VAL/40, VAL/43, VAL/44.

<sup>31</sup>See list of instruments issued to 1984 in VAL/10, p. 8-9; subsequent instruments are listed in the Secretariat Background Documents for the annual review.

<sup>32</sup>VAL/W/10.

<sup>33</sup>VAL/W/11.

<sup>34</sup>15S/8. See also documents from the Kennedy Round Group on Assessment of Duties, TN.64/30, TN.64/NTB/19, 21, 25, 26, 28, 32, 34, and Secretariat background notes of 12 June 1972, COM.IND/W/79+Add.1, and 29 April 1975, MTN/NTM/W/7.

### III. PREPARATORY WORK

Provisions corresponding to Article VII appear in Chapter III-4 of the US-UK *Proposals*, in Article 12 of the US Draft Charter, in Article 18 of the New York Draft Charter, and in Article 34 of the Geneva Draft Charter.

The subject of customs valuation was further discussed at the Havana Conference and a number of amendments were made, including the addition of a new paragraph 1, providing for co-operation toward standardization of definitions of value and of procedures for determining customs value. In paragraph 2 of the Charter article the words “directly affected” are inserted after “upon a request by another Member”.<sup>35</sup> Sub-paragraph (d) of paragraph 4 became in the Havana Charter a separate paragraph (6) in order to avoid any misunderstanding of the concept of paragraph 4. Accordingly, the word “paragraph” was replaced by the word “article” in the Havana text.<sup>36</sup> The Working Party on Modifications to the General Agreement, which met at the Second Session in September 1948, did not decide to bring these changes into the General Agreement.

During the early years of the GATT, work was pursued on valuation and other issues relating to customs administration (see also Article VIII). During the Review Session of 1954-55, a number of amendments to Article VII were agreed. The Protocol Amending the Preamble and Parts II and III of the General Agreement, which was done on 10 March 1955 and entered into force on 7 October 1957, deleted the words “at the earliest practicable date” in paragraph 1, amended paragraphs 2(b), 4(a) and (b), and amended the interpretative notes in Annex I relating to Article VII. The amendments are commented upon in the Working Party Report on “Schedules and Customs Administration” adopted on 26 February 1955.<sup>37</sup>

### IV. RELEVANT DOCUMENTS

See below at the end of Article X.

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<sup>35</sup>Havana Reports, p.75, para.30.

<sup>36</sup>Havana Reports, p.76, para.34.

<sup>37</sup>3S/205, 211-214.