The following document shall be issued as an Addendum to L/228 after approval by the interested delegations.

**VALUATION FOR CUSTOMS PURPOSES**

*Questionnaire for the Ninth Session*

**Addendum**

The following statements were made orally to the Technical Group on Customs Administration by the delegations of the following countries:

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Spec/1/55
Question 1.

The Technical Group came to the conclusion that the system applied by the Australian Government permits the reply that no arbitrary or fictitious values are used.

This decision was taken after a careful study of the regulation providing the power for the Minister to determine the value, if this value cannot be ascertained in the normal way, and the explanation given regarding that regulation by the delegate of Australia. The Australian delegate explained that this power to fix the value is not transferred to any administrative body, but is exercised exclusively by the Minister, and that this possibility is used only in exceptional cases when the importer himself is not able to furnish the necessary data. The delegate also assured the Technical Group that the decisions are taken as speedily as possible, and that though legally the Minister is free to ascertain the value on any basis he likes, in practice, the value ascertained is the value which would also have to be used in normal cases. The delegate of Australia could not reply in this meeting to a question as to which value is used in practice in this form of jurisprudence, domestic or export value.

Question 3.

The following additional statements were made by the Australian delegate. Valuation is based on the information given by the exporter on the prescribed form, which has to contain the current domestic value as well as the price paid. The current domestic value is based on the actual class of trade in which the importation took place, which means that the wholesale price is used as a basis if the goods are imported by a wholesaler.

Question 4.

The reply given to this question was altered to read as follows:

"The time which is accepted for valuation purposes is, in the case of the acceptance of the actual money price, the time of sale, and in the case of the use of domestic value, the moment of exportation."

Question 6.

(a) or (b), whichever is higher, due to the definition given under 3.

Question 8.

In the case of basing the value on the actual money price paid, the invoice, and in the case of current domestic value, the declaration is used as a basis for assessing the value.

Question 9.

The regulations provide for the use of an alternative method of valuation; but the customs officer has no free choice, as he is obliged to apply one of the two systems, whichever leads to the higher value.
Question 10.

Yes. The explanation given in the statement is not based on the legal situation, but on the practical application.

Question 11.

International Monetary Fund rates are applied insofar as such rates exist in relation to the country concerned. No regulations exist to deal with foreign countries applying multiple currency rates.

Question 12.

No additional import tax is levied. The internal tax levied at import (sales tax) is based on the value fixed for duty purposes, and is calculated on a duty-paid value.

BELGIAN CONGO AND RUANDA URUNDI

(Original Statement L/228/Add.4, page 7)

Question 3.

The value is in practice based on the c.i.f. price of the product imported. The price of similar imported products is used only in very exceptional cases, as fraud etc.

Question 6.

The reply to (c) has to be "yes" instead of "no".

Question 12.

The reply under (b) should be omitted as not relevant.

The statistical tax is paid at the rate of .......... on the customs value, duty not included.

BRAZIL

(Original Statement L/228/Add. 4, page 10)

The system described refers only to sixteen ad valorem items under 3,800 specific items.

Attention was drawn to the fact that the Brazilian Government decided to adopt the Brussels nomenclature as well as the Brussels valuation system.
BURMA

(Original Statement L/228/Add.1, page 6)

Question 1.

The delegate of Burma explained that the appraised value in the case of absence of satisfactory information is not an arbitrary value, but is based on the value of similar imported goods. The value of orlon hosiery, new product imported for the first time, for example, and not accompanied by related documentation, would be fixed on the basis of information available for nylon products.

Question 2.

Practically, no. Although the laws provide the possibility of basing the valuation under certain circumstances on the value of comparable domestic products (this provision is contained in the Sea Customs Act, but not in the part reproduced in the Annex to this statement, as erroneously referred to on page 6 of L/228/Add.1), in practice this regulation is not applied.

Question 3.

Yes. The regulation mentioned under (a) (fixing the value on the basis of the wholesale price) is only used in a very few cases, when no satisfactory documentation is available. In all other cases, which may cover 99 per cent of the imports, valuation is based on the price actually paid for the imported goods. This possibility is provided by a legal interpretation of (b) of Section 30 of the Sea Customs Act.

Question 4.

The time and place of exportation mentioned in Section 30 of the Sea Customs Act refers only to export duties.

Question 5.

The port of importation.

Question 7. Yes.

Question 8.

For 99 per cent of the imports the invoice price is accepted as the basis for valuation.

In the remaining cases duty is assessed on the basis of the current wholesale market price for like imported goods.

Question 9.

The customs regulations provide an alternative application of the two systems. The customs officer has no free choice between the systems, as he has to use the wholesale price when the product is on the list of goods for which a wholesale market exists.
Question 11.

The International Monetary Fund rate where applicable, otherwise the official rate. No regulations exist to deal with foreign countries applying multiple currency rates.

Question 12.

Only an internal tax (the sales tax) is levied at importation. This tax is assessed on the duty-paid import value.

Question 13. No.

Question 14.

Yes. As already stated, the value is based on like merchandise only in exceptional cases. In this case, the actual class of trade is taken into account.

C A N A D A

(Original Statement L/228/Add.1, page 9 and L/228/Add.6)

Question 1.

No, not as regards trade with contracting parties. As regards trade with countries which are not enjoying most-favoured-nation treatment, under exceptional circumstances prices are fixed at a duty value which approximates to domestic prices; but this system is only applied in cases where such imports threaten material injury to an established industry.

Question 3.

Yes. The Technical Group thought it advisable to draw the attention of the working party to the fact that the application of the special valuation system for the so-called "end of season sales" could be considered as being contrary to the obligation of basing the valuation on the actual value. The Canadian delegate underlined especially the fact that this system can only be applied in clearly prescribed circumstances, and that the value in such cases also follows closely to the average home market value of such products in the country of export. He finally stressed the point that these decisions cannot be taken arbitrarily by a customs officer, but are reserved for the Minister.

The United States delegate drew attention to the fact that according to his information the foreign exporter has to sign a declaration form stating that the invoice price is not less than the highest price at which the goods have sold in the home market in the preceding six months, a declaration which it is very difficult for the exporter to give.
Question 4.

The time of exportation (if not end of season case).

Question 5.

Place of exportation. F.o.b.

Question 6.

(a) or (b) whichever is the higher.

Question 8.

The valuation is normally based on the invoice price. All charges included in the invoice related to expenses after the export from the shipping country are deducted.

Question 9.

Alternative valuation methods are provided. The customs officer has no free choice, due to the fact that the conditions under which the systems are to be applied are provided in the law itself.

Question 11.

The exchange rates applied are based on the International Monetary Fund rates, or, if such rates are not applicable, on the commercial bank rates. Where multiple rates are used the actual rates applying to each transaction are accepted.

Question 12.

Only an internal tax, the sales tax, is levied at importation. This tax is based on the duty-paid value of the product related.

Question 13.

No details regarding cases in which Canada feels hurt by the valuation regulations of other countries were given.

Question 14.

(a) and (b) are used. If the system (b) is used, the class of trade is taken into account.

Additional question.

The United States delegate further drew attention to the application of minimum prices for cut flowers in the season time. The Canadian representative explained that this system affects all cut flowers, but that the fixed values are only an assumption of the real value. The basic law of the
application of the fair market value is not set aside by this regulation, since everybody who complains has the right to have duties based on actual values if he so wishes. Such complaints can be raised by a simple letter. To further questions, the Canadian delegate explained that the time of season (Christmas and Easter) is some two months, and that the minimum prices are notified to the customs officers, but not made publicly known.

C E Y L O N

(Original Statement L/228/Add.1, page 12)

Question 3.

In the case of Ceylon, similarly as in the case of Burma, the "true wholesale market value" is used only in limited cases. The importer has only to declare the c.i.f. price of the product, and only in the case of certain goods (some textiles) is the importer asked to declare the wholesale market value. No list of these products has been published.

Question 4.

The time of importation.

Question 5.

The place of importation. C.i.f.

Question 6.

Normally, the landed price in the importing country.

Question 8.

Usually the invoice price.

Question 9.

Administrative provisions for the application of alternative methods of valuation exist. The customs officer is bound as to which system to apply.

Question 10.

The invoice price is used regardless of refund of taxes. In the case of deduction of taxes, they would not be added back.

Question 11.

The International Monetary Fund par value, if applicable, otherwise the official rate. No regulations exist to deal with foreign countries applying multiple currency rates.

1 The only decision the Minister can make is to establish actual values. He has no other option and cannot refuse to use such actual value.
Question 12.

No. Other charges are based on value.

Question 14.

The valuation is only exceptionally based on like merchandise; if it is taken care of the level of trade in which the goods are imported.

DENMARK

(Original Statement L/228/Add.1, page 14)

Question 3.

Yes. In the statement made in paragraph 2 of the reply to this question, it is understood that in the case of a sale to a wholesaler, the valuation is made on the basis of the wholesale price.

Question 6.

Export price in the exporting country. Exceptionally, domestic price in the exporting country.

Question 8.

Invoice price subject to corrections.

Question 10.

Internal taxes are excluded.

Question 11.

The International Monetary Fund rates are applied insofar as such rates exist in relation to the country concerned. Otherwise the official rate of the Bank of Denmark is used. No regulations exist to deal with foreign countries applying multiple currency rates.

Question 12.

Insofar as internal taxes are levied on imported goods on an ad valorem basis the duty-paid import value is used as the basis for such taxation.

Question 14.

Duty is based on the value of the merchandise actually imported.
FEDERAL REPUBLIC OF GERMANY

(Original Statement L/228/Add.1, page 17 and Add.4, page 13)

Question 2.

Attention is drawn to the fact that the English version of the German statement (which is a translation) contains an error, and should not read that the valuation "may", but "cannot" be based on the value of comparable domestic products.

Question 10.

The interpretation of the law tends in the direction that only the deduction of taxes on products, that is to say indirect taxes, is acknowledged as being in conformity with this regulation. In practice also the deduction of other charges (social payments, direct taxes) does not lead to a correction of the value for the time being, but these practices may soon be changed.

Question 11.

In all cases, official bank rate.

Question 12.

No import tax is levied. The only internal tax levied is the turnover equalization tax. This tax is levied on the basis of the duty-paid value of the imported merchandise.

FRANCE

(Original Statement L/228/Add.2, page 7 and Add.5, page 4)

Question 1.

Fixed values are applied for mineral oil. These values are fixed by the Direction des Carburants du Ministère de l'Industrie on the basis of the prices for each quarter-year, for the previous period. The prices are, as far as the delegate knew, fixed on a general basis without further distinction. This system finds its reasons in the necessity to levy internal taxes at the same time as duties and thus avoid complicated calculations at the time of import of mineral oils.

Question 8.

The treatment of the valuation of pharmaceutical products which, regardless of the phase of importation, always have to be valued on the basis of the retail price.
Question 11.

Exchange rates are fixed on the latest market rates which are published in the Journal Officiel. If a publication such as the Journal Officiel is not available for the country involved, a conversion is effected on the basis of average rates notified monthly to the customs authorities. If such a valuation is not possible, the rate which can be proved to have been effectively paid, or if such a proof is not possible, the published estimated rates, are used.

Question 12.

Normally the customs value is taken as a basis for the valuation of import and internal ad valorem taxes levied at importation. With the exception of the special temporary compensation tax, to which a duty is not added, the duty-paid value is used. A number of special valuation systems are referred to in the statement made by France under this question.
Question 3.

Yes. The system of applying fixed values has been introduced for simplification purposes. It is applied to about five per cent of the tariff items. The fixed values are revised every year, but in the case of bigger changes arising suddenly during the year, extraordinary changes are made. The items which are chargeable under this system are fixed through legal regulations and are applied on imports from all countries. The fact that sometimes the fixed values are differentiated depending on the source of delivery of the goods, finds its reason in the fact that the prices in the preceding period were different.

Questions 4 and 5.

Time and place of importation. The reference to exportation is made only for export duties. The existence of a tariff value does not liberate the importer from declaring the import value, but the duty is fixed independently from the value declared on the basis of the fixed value.

Question 9.

The law provides, depending on the goods imported, for valuation on the basis of the market value, on the invoice or on fixed value. Also, the application of the market value is not left to the discrimination of the customs officer, but is strictly circumscribed by the existing regulations. This wholesale market value is used for staple commodities with well-known world market prices.

Question 11.

In the reply to this question it has to be understood that in all cases the current bank rate is applied.

INDONESIA

(Original Statement L/228/Add.1, Page 24)

Question 3.

The reply to this question was affirmative. The Indonesian legislation tries to establish the actual value for the goods to be imported. In fact, however, the value is increased by the charge to be paid in connection with the acquisition of foreign currency (33, 100 or 200 per cent, depending on which products are imported). Regardless of the reason for which this charge
is levied, the fact that an addition is made to the real value leads to the conclusion that contrary to the legal regulations the factual system of evaluating customs goods is no longer in conformity with the obligation to apply the actual value.

**Question 11.**

The additional question as to whether the exchange rate applied is in conformity with the IMF regulations, could not be answered.

**Question 12.**

The statistical tax is 1 per cent, and is levied on the value, without including the duty. Internal taxes levied at import are based on the duty-paid value.

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**ITALY**

*(Original Statement L/228/Add.2, page 13 and (English only) Add.5, page 4)*

**Question 8.**

If goods are delivered in instalments the original invoice price is in practice used as long as the price-level of such goods has not changed considerably. In the case of a delivery being postponed by force majeure the original lower rate can be applied on the basis of regulations providing for exceptional cases.

**Question 12.**

The "administrative charge" of 0.5% is levied on the customs value duty not paid. The equalization tax for the original turnover tax is levied on the duty plus value.

The administrative charge of 0.5% is destined for services rendered and the total revenue from this tax - which did seem high to some delegates - does not cover the full cost of the customs administration.

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**JAPAN**

*(Original Statement L/228/Add.1, page 55)*

The normal basis for establishment of the value for duty purposes in Japan is the invoice price plus charges up to the c.i.f. point. Where no invoice price is available, or the invoice price is unacceptable, the value for duty purposes is established at a c.i.f. level by reference to the value of like goods recently imported, or failing such evidence, by reference to the value of like goods sold in the internal market of the exporting country.
As a last resort, reference may be made to the value of comparable goods of Japanese origin, treated as being duty-paid values. Each of these methods is subject to the condition that the prices to be considered are not less than the prices for goods in the usual wholesale quantity in the ordinary course of trade.

NETHERLANDS - NEW GUINEA

(Original Statement L/228/Add.3, page 9)

Question 1.

The regulations provide a system of fixed values similar to those applied in India and Pakistan. This right, however, has not been used since the war.

Question 8.

The term "value in bond" means "the value at introduction in free trade".

Question 12.

The statistical tax is 1 per cent of the dutiable value, duty not included.

NETHERLANDS - SURINAM

(Original Statement L/228/Add.3, page 6)

Question 7.

The rule that the valuation has to be based on the normal quantity imported provides the right for the importer, who is importing at exceptionally low quantities and therefore at relatively higher prices, to require the valuation on the basis of the lower wholesale value. It has to be understood that this is a right of the importer which is granted only on his request.

Question 12.

The statistical tax is 1 per cent of the dutiable value, duty not included.

NEW ZEALAND

(Original Statement L/228/Add.1, page 26)

Question 3.

The addition of 10 per cent to the home consumption price on the principal markets is an addition to correct the foreign price to an estimated c.i.f. price. This system is applied regardless if the goods are imported by sea or air. The practice uses the invoice price on the declaration as the basis of valuation. Investigation takes place only in case of doubt. Theoretically a product sold to a retailer should also be corrected to the wholesale price.
Question 6.

The system mentioned regarding suspect imports gives the customs collector the right to use any value he thinks appropriate; that this right cannot lead to valuation independent of the actual value is ensured by the fact that every importer has the right to address himself to the higher administrative authority or to appeal to the courts of law. The same right to appeal to the courts is given in the case which provides the right for the Minister to determine the current domestic value under certain circumstances "at such sum as he thinks just". The delegate of New Zealand pointed out that this regulation in fact is applied extremely seldom.

Question 12.

The sales tax is based on the duty-paid value of the imported goods. The increase mentioned in the statement is 25 per cent. This levy is destined to bring the price to a comparable inland price.

N O R W A Y

(Original Statement L/228/Add.1, page 31)

Question 1.

The remark made in the statement which draws attention to Item 6 has not to be understood as if Norway would apply arbitrary or fictitious values.

Question 12.

The import licence fee mentioned is one per mille. The expression "transportation tax" would be better replaced by "harbour fee". In fact this levy is charged for landing costs and is different depending on the harbour which is used. No such charge is levied if the goods are not imported by sea.

Question 14.

The valuation is based on the value of the merchandise actually imported, with the exception of the cases referred to under the replies to Question 6.

P A K I S T A N

(Original Statement L/228/Add.3, page 13)

Question 1.

The fixed values are established on 1 January each year, and are regularly revised at this date, but also exceptionally if special cases arise. These fixed values refer to about 5 per cent of the total imports. It is a system intended to have the simplicity of specific duties.
RHODESIA AND NYASALAND

(Original Statement L/228/Add.1, page 35)

Question 10.

The statement that the exclusion of taxes is limited to export duties and excise duties has to be understood that only those cases become known to us. But if the case arose, we would deduct any other indirect tax which was refunded.

SWEDEN

(Original Statement L/228/Add.3, page 15)

Attention is drawn to the fact that the Swedish Government has the intention to change over in the near future from the actual system of valuation to the Brussels system.

Question 8.

The right to evaluate goods by experts to arrive at a basis for valuation is used only in the case when the value cannot be found by any other means. As far as it is known, such estimates are not based on the domestic but on the actual value of the imported products.

Question 11.

In the case of currencies which are not officially quoted, the actual commercial bank rate is used.

TURKEY

(Original Statement L/228/Add.2, page 16)

Question 12.

The charge levied in connection with the acquisition of foreign currency (concerning which a case is pending at the CONTRACTING PARTIES as to whether such a levy is to be considered an import tax in the sense of Article II) is found on the basis of the customs value without adding import duties.
UNION OF SOUTH AFRICA

(Original Statement L/228/Add.1, page 39)

Question 5.

The discrepancy between the statement that the valuation is based on the value at the principal markets from which the exports take place and the statement under Question 6 that valuation is based on the value of the exporting country finds its explanation in the fact that the term "principal markets" is the legal provision, but the value of the exporting country is the value which is used in practice.

Question 7.

The obligation to fix the value on the basis of the "usual wholesale quantity" means that neither personal advantages nor disadvantages are taken into account.

UNITED KINGDOM

(Original Statement L/228/Add.1, page 42)

Question 3.

The problem referred to by the United States under their Question 13 (L/228/Add.1, page 51), was replied to as follows by the United Kingdom delegate:

Normally, a great amount of the imports to the United Kingdom can be introduced or generally imported under preferential rates or free of duty. Many of the remaining duties are specific duties. The problem raised by the United States therefore applies only to the limited group of the remaining items. It may be guessed that 90 percent of these imports are considered as being related to trade between an independent seller and buyer, and are therefore based on the invoice presented, and are not referred to the Ministerial Valuation Board for a decision. The remaining 10 per cent of the cases contain such cases as have to be decided by the Ministerial Valuation Board. In the greater number of such imports again the invoice can be used, but has to be corrected to adapt the price to the prices paid on an open market. In cases (some two of the 10 per cent) however, where the invoice does not bear any useful information the value is found on the basis of the selling price on the home market, reduced by those margins of profit and transport expenses, etc. which would never be part of the expenses of the original importer. The United Kingdom delegate stressed the point that this system is applied, as already indicated, in a very limited number of cases, and is applied in a general way insofar as decisions are taken case by case (e.g., the relationship between the American firm A, with the English firm B), and not for each shipment and are valid for a reasonable period due to periodically made adjustments.
Questions 1 and 2.

The United States delegate made the following additional statement:

It is right that as the questions are worded, America has to reply with a "yes" as it applies under certain circumstances arbitrary or fictitious values, and also the value of comparable domestic products. But it has to be stated, however, that the extent to which such values are applied is limited to cases for which other countries come to similar solutions by using regulations falling under other sections. So, for example, has the "American selling price" (which is based on Section 336 of the Tariff Act) obviously the same function in the United States as the anti-dumping and countervailing provisions in other states. This regulation can be applied exclusively on articles which are not bound under any bilateral or multilateral treaty and is limited to six specified commoditiss. Also the application of the "United States value" and the "cost of production" (Section 402) is probably not unknown in the practice of other countries which unavoidably have to use similar criteria if the value cannot be determined in a normal way. The difference to other countries seems to rest in the fact that other countries can use more freely administrative measures, whereas under the American system, the administration has no right to act without precise legal provisions.

Questions 3 and 14.

The Canadian delegate referred to the fact that there are important instances when the United States does not levy duties on actual values. For example, wholesale prices at which sales are made to United States wholesalers are often not accepted as the values on which duties are applied. Although similar sales are normally made at the same wholesale prices to domestic wholesalers, such prices are not accepted unless they are offered to any buyer, including retailers. As a result duties are often levied on the higher price to retailers, although the actual price at which the goods were imported was at the wholesale level.

The United States delegate stated that their regulations provide in Section 402 of the Tariff Act that the value has to be based on the price freely offered. The term "freely offered" has been interpreted by the United States court as meaning that it must be the price at which goods can be bought by everybody. Therefore, if a manufacturer has a discounted price for wholesalers, this price cannot be used as a basis for valuation. The United States delegate drew attention to the fact that a Bill was prepared which provided a regulation to exclude the possibility of such interpretation, but that this Bill was rejected by Congress. But even the actual interpretation seems, in his opinion, to be considered as an "actual value."
Question 6.

The statement that "there is no provision in the law for the establishment of value on the basis of a landed price in this country" should be understood that this applies only insofar as United States value (a notional f.o.b. value) is determined with reference to the selling price of the goods in the United States less deductions for post-importation expenses, duties and freight costs.