1. Amendment proposed

"As indicated in the Interpretative Note, it was expected that a majority of the contracting parties would give effect to the principles of paragraph 1 within a few years. Since the Agreement has been in force for six years, it should not be necessary to retain the words 'at the earliest practicable date'. The Interpretative Note could also be deleted." (Secretariat proposal, L/189, page 7)

2. Amendment proposed

"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 adapt their respective national laws to such principles and to apply them in the light of the interpretative notes to this Article as set out in Annex I, in respect of all products subject to ad valorem duties or other charges or restrictions on importation and exportation based upon or regulated in any manner by value, at the earliest practicable date. 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" (Italy, W.9/61, page 2).

3. Interpretative Note to paragraph 1; proposed addition

"The term 'or other charges' shall not be regarded as including such internal taxes or their equivalents as are imposed on or in connection with importation" (Germany, L/261/add.1, page 9).

"The expression 'or other charges' should be interpreted to exclude internal taxes or equivalent charges imposed on imports or because of importation" (Italy, W.9/61, page 3).

The intention of these proposals was to make it clearly understood that the wording of paragraph 1 of Article VII does not require internal taxes (or their equivalents) which are charged on imported goods to be assessed on the same value 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.

The Technical Group recognized that Article VII could not be held to
impose any commitment in relation to internal taxes, over and above those
contained in Articles I and III, and the German proposal was adopted, with
a modification of the English text to read as follows:

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

The French text remains as given in L/261/Add.1.

4. Interpretative Note to paragraph 1; proposed addition

"It is recommended that the determination of valuation for customs
purposes should be extended to all merchandise subject to customs
declaration, including duty-free merchandise and merchandise liable
to specific duties" (Italy, W.9/61, page 3).

This proposal was not supported by the Technical Group, which considered
that it was not only unnecessary, but might cause confusion in conjunction
with the interpretative note adopted in the previous paragraph.

5. Amendments proposed to paragraph 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. Each contracting party shall
undertake to apply only one method of valuation and thereafter shall
refrain from choosing between two or more methods depending on which
method results in a higher value for customs purposes" (Germany,
L/261/Add.1, page 7).

"The value for customs purposes should be determined by a uniform
system which would preclude resort to various alternative methods of
valuation permitting the adoption of a method likely to lead to higher
dutiable values" (Italy, W.9/61, page 2).

It was made clear that the object of these proposals was to preclude
the use of methods of valuation which take as the value for duty purposes
the higher of two figures arrived at by the application of different criteria
(for example, the current domestic value of the goods in the country of
exportation or the f.o.b. price actually paid, whichever is the greater).
The intention was not to preclude a contracting party from adopting valuation
provisions under which the value is to be assessed on a principal basis or,
if that basis is inapplicable, on one or more successive alternative bases,
The sponsoring delegations claimed that a basis of valuation which required the adoption of the higher of two alternative figures was unfair and that it led to uncertainty to traders regarding the value on which duty would be assessed.

Other delegations were of the opinion that if both the alternative criteria, taken separately, were compatible with the principles of Article VII there could be no question of outlawing a system of valuation which prescribed the adoption of the higher of the values yielded by the application of those criteria; others felt that a distinction should be drawn between cases where the traders concerned were aware of the figures from which the higher would be chosen and cases in which one or more of the elements applicable were unknown to the traders. In the former case it could not be held that the trader suffered any uncertainty. Nor did it appear that there was any unfairness in a system of valuation which prescribed the adoption of the higher of two alternatives. It was also argued that the existence of the alternative system of the valuation was a fact of which due cognisance was taken at the time of the negotiations and that there could hardly be any force in a plea that tariff concessions negotiated had subsequently been impaired by that system.

During the discussion it became clear that the proposed amendments were unacceptable to a number of countries' interests and that the Technical Group therefore reached the conclusion that it could not put forward the amendments with any confidence that they would be acceptable to a majority of the contracting parties. It was, however, generally agreed that there were valid grounds of objection to a system of valuation which prescribed the adoption of the higher of figures arrived at by alternative criteria where these criteria were of such a nature that the traders concerned could not, in advance, calculate the figures from which the higher would be chosen, since this could constitute a serious impediment to trade.

6. Amendment proposed to paragraph 2 (a)

"The value for customs purposes should not be based on the domestic price in the country of exportation, on the value of merchandise of national origin or on arbitrary or fictitious values" (Germany, L/261/Add.1, page 7).

The basic intention of the amendment was to preclude contracting parties from basing the value for duty purposes of goods on the current domestic value of those goods in the country of exportation. The representatives in favour of the proposal considered that exporters were bound, in the nature of commerce, to adjust their export prices to the general level of prices ruling in the intended market and that a valuation system which took no account of this, but instead prescribed the adoption of the prices ruling in the domestic markets of the country of export, was such as to hinder the full development of international trade.
Discussion showed that the proposal was, however, unacceptable to a considerable number of delegations in the Technical Group, and to other contracting parties. It was emphasised that there were two main systems of valuation in force among contracting parties, namely, those based on the concept of the current domestic value in the country of exportation and those based on the price charged to the purchaser in the importing country, and that each system of valuation had its advantages and disadvantages: there was no convincing evidence that either of those systems was markedly inferior to the other. It was pointed out that Article VII was essentially a statement of the principles which should guide contracting parties in the matter of national valuation provisions and that it had been very carefully drafted in order to cover equally the various systems of valuation in force in countries and that the proposal that one system of valuation should be proscribed was such as to destroy the balance of a carefully poised compromise. The amendment was finally rejected by eight votes to four.

The representative of Czechoslovakia, who is not a member of the Technical Group, spoke in favour of the amendment, basing himself on the ground that its adoption would surmount the special difficulties experienced by his country as a result of the fact that the domestic selling prices of goods bulking large in the export trade were fixed by the State at levels which, he held, were not necessarily related to open market prices. In view of rejection of the amendment, the Czechoslovak representative expressed the hope that contracting parties employing the current domestic valuation system would have sympathetic regard to the difficulties of his country.