The Group on Valuation met from 20 to 23 April to seek appropriate solutions, on an ad referendum basis, to problems in the field of valuation which had earlier been identified, in accordance with the decision of the Council (C/M/67) on the report of the Committee on Trade in Industrial Products.

The various suggestions contained in the report of Group 2 (L/3496, Annex 3) were reviewed, in particular those which had been generally accepted (paragraphs 10 and 12). In addition, consideration was given to certain new proposals for principles on valuation interpretative notes to Article VII.

After discussion, the principles and possible interpretative notes which appeared to merit further consideration were drawn together as shown below, in some cases with alternative texts indicated. It was agreed that neither the Group as a whole nor any particular delegation necessarily accepted the text but that it was presented as a basis for study by governments looking towards further discussion at the next meeting of the Group on 22-25 June.
I. DRAFT PRINCIPLES

10(a) 1. Valuation systems should be neutral in their effect and in no case be used as a disguised means of providing additional protection by artificially increasing the values to which the rate of duty is to be applied.

10(a) 2. Valuation systems should not be used to combat dumping.

BCV V 3. Valuation systems should protect traders against unfair competition arising from undervaluation.

10(b) mod. 4. Valuation systems should be of general application without distinction as between sources of supply.

BCV I mod. 5. Dutiable value should be based on equitable and simple criteria which do not conflict unduly with commercial practice.

BCV VIII and VII mod. 6. Valuation systems should keep formalities to a minimum and valuation should be based to the greatest possible degree on commercial documents.

BCV III 7. Valuation systems should not prevent the quick clearance of goods.

10(d)ii mod. 8. The valuation criteria (price, time, place, quantities, level of distribution, etc.) should be made publicly available.

BCV IV mod. 9. The system of valuation should enable [importers]/[traders] to estimate, in advance, with a reasonable degree of certainty, the value of their goods for customs purposes.

12(a) mod. 10. On the request of the importer [or exporter] the customs administration shall explain how the customs valuation has been calculated for his goods, [provided the confidentiality of business secrets is maintained].
12(b) Consistent with Article X:3(b), each contracting party shall provide a procedure for appeal against valuation decisions of its customs authorities to an independent and impartial body.

12. Valuation systems should take into account the need to safeguard business secrets.

II. DRAFT INTERPRETATIVE NOTES

EC 1. The value for customs purposes of imported merchandise is the "actual value", which is understood to be the price at which, at a time and place determined by the legislation of the country of importation, the merchandise imported or like merchandise is sold or would be sold to that country in the ordinary course of trade under fully competitive conditions.

   -- for c.i.f. countries, this price is understood as being for delivery at the place of introduction into the country of importation;

   -- for f.o.b. countries, this price is the f.o.b. price made in the exporting country for the country of importation.

EC 2. In administering the foregoing, all countries undertake to restrict the use of the concept "like merchandise" to exceptional cases in which the actual value of the imported goods cannot be determined on the basis of the invoice price.

EC (from Anti-dumping Code with add.) 3. "Like merchandise" is understood to mean an identical product produced in the exporting country, i.e. similar in every respect to the product imported or, in the absence of such a product, another product which, although not similar in every respect, has characteristics closely resembling those of the imported product (same origin, same type, same quality, etc.).
4. When the actual value is not ascertainable in accordance with Article VII, paragraph 2(b), (i.e. should "like merchandise" from the country of exportation not be available) the nearest ascertainable equivalent within the meaning of sub-paragraph (c) should be the price of like merchandise sold on the importing market, coming from countries of export other than the country in question [but with similar economic conditions and structure] or should be based on the actual costs of such goods.

5. With regard to the elements of level, quantity and time, contracting parties should respect economic reality and commercial practice and, inter alia

-- accept the usual quantity rebates even in the case of fulfilment of a contract in successive consignments;

-- take into account the time required for executing the contract in the branch of trade in question.

6. The value of imported merchandise for customs purposes should in no case be based on arbitrary or fictitious values. Any values which are not based on the price paid or obtainable under fully competitive conditions for imported goods or like goods for the market of the importing country [or on the actual costs of such goods] [and, inter alia the value of the same or like merchandise in the domestic market of the country of exportation] shall be deemed to be arbitrary or fictitious [values].

7. The value for customs purposes of any imported product should not include the amount of any customs duty 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.

8. The importer should be made responsible for the accuracy of his declaration.

NOTE: Some delegations proposed that, at its next meeting, the Group should consider what recommendations, e.g. those on the lines of paragraph 20 of COM.IND/W/47, it might make to cover the situation in which the principles and interpretative notes set out above cannot be immediately accepted and implemented by all contracting parties.