1. Due to shortage of time at the last meeting of the Group on 5/6 July it was not possible to resolve all the differences of view in the text of the draft interpretative notes, and the Interim Working Paper, Spec(71)31/Rev.1, contains alternative texts for a number of paragraphs. A number of delegations stated at that time that they intended to circulate further amendments to this paper to facilitate discussion at the Group's next meeting.

2. Following discussion between several delegations the attached revised version of interpretative notes 1-4 is submitted for the consideration of the Group. This new text would replace pages 4-7 of Spec(71)31/Rev.1, and it is hoped that it will provide a more convenient basis for the next discussion than the previous text. Notes are provided to each paragraph of the new text so that other delegations may more easily examine the changes from the previous text.

3. Amendments to the remaining paragraphs of the interpretative notes may be suggested at the Group's next meeting.

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*This document contains proposals for revision of certain paragraphs in Spec(71)31/Rev.1.*
DRAFT INTERPRETATIVE NOTES

(References to the previous text are to Spec(71)31/Rev.1)

A.

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 countries which base their valuation on a c.i.f. price, that price includes the costs of delivery to the place of introduction into the country of importation.

For countries which do not base their valuation on a c.i.f. price the price to be taken into consideration includes the costs of delivery of the merchandise to the place defined in the legislation of the country of importation (e.g. ex factory, at railhead, at the dock, free on board ship or delivered to aircraft).

Note

The first section of the above paragraph is unchanged from the previous text. The second and third sections include a number of drafting changes designed to add further precision to the interpretation of "actual value" in the two alternative cases. This further clarification makes the explanatory note in the previous text unnecessary.
For the purpose of Article VII paragraph 2(b), "like merchandise" is understood to mean a product of the same origin and similar in all respects to the product imported or, in the absence of such a product, another product of the same origin as the product imported, whose characteristics closely resemble those of the product imported (in particular as regards condition, type, quality, etc.).

Note:

It was felt that the order of paragraphs in the interpretative notes would be more logical if the definition of "like merchandise" was brought forward so that it precedes, in the text, any reference to the circumstances where valuation based on this definition might be appropriate.

The text above is based on paragraph 3 in the previous text in that "like merchandise" must be of the same origin. This more restrictive definition was considered to meet the requirements of the Group more fully for a clearer and less open interpretation of Article VII.

The first phrase of the paragraph was added to make it clear that the definition is made in the context of Article VII only and is not intended to be applicable more widely.

The examples given of characteristics which must bear a close resemblance to the product imported have been altered since the terms of sale and the commercial level of sale were considered strictly irrelevant to such a definition.

The reference to simultaneous availability of "like merchandise" (in paragraph 3 bis of the previous text) has been omitted. It was considered that the question of the timing of availability of the goods was not essential to the definition: appropriate adjustments to the price can be made where goods are not available simultaneously.

Other elements in paragraph 3 bis of the previous text which are not included in the text above have been covered in note D below.
The price of "like merchandise" should be used as a basis for Customs valuation only in cases where the "actual value" of the merchandise cannot be determined on the basis of the price paid or payable or of the price made by the vendor to other purchasers in the importing country for identical merchandise.

Note

Apart from the addition of "made", the text above is identical to the first part of paragraph 2 bis of the previous text, with the suppression of the last phrase in brackets which is covered in note D below e.g.: in the third sub-section. The second part of the previous text, and the alternative to it, are covered in a new paragraph which is now note E.
D.

The Contracting Parties undertake to determine value in accordance with the foregoing Interpretative Notes whenever possible, but there may be cases when "actual value" is not thus ascertainable. In such cases Article VII paragraph 2(c) is applicable. The "nearest ascertainable equivalent" within the meaning of that sub-paragraph should be based on information available on the importing market, such as:

- the price of merchandise conforming to the definition of "like merchandise" given in Interpretative Note B above in all respects except that it originates in a country other than the country of origin of the merchandise to be valued, provided that in that other country the conditions of production (including wage rates) are comparable to those in the country of origin of the merchandise to be valued, and prices are established in fully competitive conditions;

- if the imported merchandise is sold or resold, the price made on the first sale or resale in fully competitive conditions, such price being adjusted to take account of the various elements that should not be included in the Customs Value as defined in Interpretative Note A; or

- any other element that can constitute a valid basis for determining the value for Customs purposes (for example, rental during the normal lifetime of the merchandise, value shown in the balance sheet as an asset).

In the few cases where it is not possible to determine the value for Customs purposes in accordance with the foregoing the Contracting Parties should give full consideration to such information as may be provided by the importer and/or the exporter.

Note

The text above represents a conjunction of the previous texts of paragraphs 4 and 4 bis. The first sub-section deals with the case of like merchandise which meets the definition in these notes except that it is of different origin (covered in paragraph 3 bis of the previous text). The other two sub-sections are based on the previous text of paragraph 4 bis, with drafting amendments.
If there is a difference between the price paid or payable for the imported merchandise and a value obtained by other methods, that should not in itself constitute a reason for rejecting the price paid or payable. There may be acceptable reasons for the difference; e.g., technical developments in the exporting country, different distribution methods, etc.

Note

The text above is based on the second part of paragraph 2 bis in the previous text, with drafting amendments for clarity. It was considered that this note should more logically follow note D since it refers to a situation which might arise through the application of valuation methods indicated in that note as well as those in note C.