GENERAL AGREEMENT ON TARIFFS AND TRADE

Multilateral Trade Negotiations
Group "Non-Tariff Measures"
Sub-Group "Customs Matters"

CUSTOMS VALUATION
New Zealand

1. At its meeting of October 1975 the Sub-Group "Customs Matters" dealing with questions of customs valuation invited participants to transmit to the secretariat in writing by 31 January 1976 specific comments on the following points (MTN/NTM/7, paragraphs 2 and 3 and GATT/AIR/1226, paragraph 1):

(a) judicial and administrative review procedures;
(b) publication of laws, regulations and administrative decisions;
(c) precise and fair handling of non-arm's length transactions;
(d) neutrality of valuation system/systems.

2. A communication from New Zealand has been received and is reproduced hereunder.

3. Delegations who have not yet submitted their comments are invited to do so without delay.

(a) Judicial and administrative review procedures

(i) Section 140 of the Customs Act 1966 empowers the Collector of Customs to value goods for the purposes of duty and Section 141 of the Act provides that such valuation shall be presumed to be correct. However, this same section provides for an appeal to be lodged against the valuation made by the Collector which may be heard either by the Minister of Customs (or his delegate) or by a Court of competent jurisdiction.
Section 142 of the Act specifies that notice of appeal against the Collector's valuation must be made in writing within 14 days after the assessment of duty, or within such further time as may be allowed by the Collector, and while the goods remain subject to the control of the Customs.

The appellant is given reasonable opportunity to be heard and the valuation for duty purposes determined in accordance with this section of the Customs Act is deemed to be the true value.

(ii) Special provisions as to the valuation of goods

In addition to the rights of the Collector to place a value upon goods, Section 146 of the Customs Act 1966 gives the Minister the power to determine the correct domestic value, if in his opinion it is difficult, inequitable or impracticable to determine such value in accordance with Section 136, which defines c.d.u.

This provision can be taken as a general appeal mechanism and importers and department may request that the Minister exercise his powers under this Section.

(b) Publication of laws, regulations and administrative decisions

The Customs Act 1966 and regulations made pursuant to the Act are public documents available to all persons.

Administrative decisions relating to the valuation of goods are generally on a case-by-case basis and the New Zealand Customs Administration does not disclose such decisions except to the parties directly concerned.

(c) Precise and fair handling of non-arm's length transactions

New Zealand charges duty on the current domestic value which has advantages in dealing with the problem of non-arm's length transactions. This minimizes many of the difficulties encountered by Customs Administrations which use other valuation systems.

Section 146 of the Customs Act 1966 empowers the Minister of Customs to determine the current domestic value of goods where, in his opinion it is difficult, inequitable or impracticable to determine the value of goods for the purposes of duty in accordance with the normal provisions of the Act. Such a situation could arise where the transaction was made on a non-arm's length basis.

The principles used by the New Zealand administration in determining the value for the purposes of duty would be explained to the importer provided the confidentiality of business secrets was maintained.
(d) **Neutrality of valuation system**

The New Zealand administration considers that the current domestic value system compares favourably with the Brussels valuation system in being neutral in its effect and meets the GATT requirement that duty not be assessed on arbitrary or fictitious values. The correct domestic value in the exporting country is transparent and not subject to influences within the importing country.