General Agreement on Tariffs and Trade

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

Customs Valuation

Japan

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 Japan has been received and is reproduced hereunder.

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

1. Basic objectives of the negotiations

   The objectives of the negotiations which the Japanese delegation considers fundamental in the field of the customs valuation are as stated in document MTN/NTM/7/20, and this basic position remains unchanged.

2. The four issues for discussion (MTN/NTM/7)

   (1) At the meeting of the Sub-Group in October 1975, it was agreed to consider the main elements of possible new international rules or principles in parallel with the discussion on the four specific points listed in paragraph 2 of document MTN/NTM/7.
The Japanese delegation is not unwilling to discuss these four specific issues, provided that the discussion be conducted as a part of our joint effort to achieve the basic objectives mentioned in I above. However, the Japanese delegation holds the view that the "draft Principles" and the "draft Interpretative Notes" which were produced as the result of great efforts over years by the contracting parties contain a number of very important elements which might very well constitute the basis for the negotiations in the field of customs valuation.

(2) Keeping this basic position in mind, the Japanese delegation would like to make the following preliminary comments on the said four points. The Japanese delegation reserves its right to make further comments in due course on any specific proposals which might be made by other participants with respect to these points.

(a) Judicial and administrative review procedures

In the view of the Japanese delegation, drawing up a common rule along the line of paragraph 12 of the "draft Interpretative Notes" could be an appropriate solution for this question.

(b) Publication of laws, regulations, and administrative decisions

In the view of the Japanese delegation, drawing up a common rule on the basis of paragraph 5 of Article 7 and Article 10 of the General Agreement and paragraph 8 of the "draft Principle" could be the possible solution.

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

Because the "discount" which may be granted to a buyer in the transaction based on a special business relationship cannot be considered as a discount in the true sense of the word, i.e. a discount "under fully competitive conditions", we hold the view that the amount discounted in such a case should be included in the dutiable value. In the view of the Japanese delegation, drawing up a common rule along the line of either paragraph 11 or paragraph 11 bis of the "draft Interpretative Notes" could be one of the realistic solutions.

(d) Neutrality of valuation system/systems

In the opinion of the Japanese delegation, both Article 7 of the General Agreement and paragraphs 1 and 3 of the "draft Principles" are formulated with a view to ensuring the neutrality of valuation system/systems.
3. Procedures for further negotiations

(1) In the Conclusions (MTN/15) by the Chairman of the Trade Negotiations Committee meeting held in December 1975, it is stated that, with respect to an agreed basis for the negotiations in the area of customs matters, it was reasonable to expect solid and substantial negotiating progress in 1976 in the Sub-Group. We fully support this view.

(2) In order to push this Chairman's Conclusions one step further and to facilitate the discussions in the Sub-Group on customs matters, the Japanese delegation wishes to suggest that the GATT secretariat, referring, where appropriate, to the provisions of the General Agreement, should prepare a draft agreement incorporating the various elements contained in the "draft Principles" and the "draft Interpretative Notes" as well as the concrete proposals submitted by the participating countries, and submit it to the Sub-Group for consideration.