Paragraph 3

Note 1

It would be in conformity with Article 35 to presume that " actual value " may be represented by the invoice price (or in the case of government contracts in respect of primary products, the contract price), plus any non-included charges for legitimate costs, which are proper elements of " actual value " and plus any abnormal discount or any reduction from the ordinary competitive price.

Note 2

If on the date of this Charter a Member has in force a system under which *ad valorem* duties are levied on the basis of fixed values, the provisions of paragraph 3 of Article 35 shall not apply :

1. In the case of values not subject to periodical revision in regard to a particular product, as long as the value established for that product remains unchanged ;
2. In the case of values subject to periodical revision, on condition that the revision is based on the average " actual value " established by reference to an immediately preceding period of not more than twelve months and that such revision is made at any time at the request of the parties concerned or of Members. The revision shall apply to the importation or importations in respect of which the specific request for revision was made, and the revised value so established shall remain in force pending further revision.

Note 3

It would be in conformity with paragraph 3 (*b*) for a Member to construe the phrase " in the ordinary course of trade," read in conjunction with " under fully competitive conditions," as excluding any transaction wherein the buyer and seller are not independent of each other and the price is not the sole consideration.

Note 4

The prescribed standard of " fully competitive conditions " permits Members to exclude from consideration distributors' prices which involve special discounts limited to exclusive agents.

Note 5

The wording of subparagraphs (*a*) and (*b*) permits a Member to assess duty uniformly either (1) on the basis of a particular exporter's prices of the imported merchandise, or (2) on the basis of the general price-level of like merchandise.

Paragraph 5

If compliance with the provisions of paragraph 5 would result in decreases in amounts of duty payable on products with respect to which the rates of duty have been bound by an international agreement, the term " at the earliest practicable date " in paragraph 2 allows the Member concerned a reasonable time to obtain adjustment of the agreement.