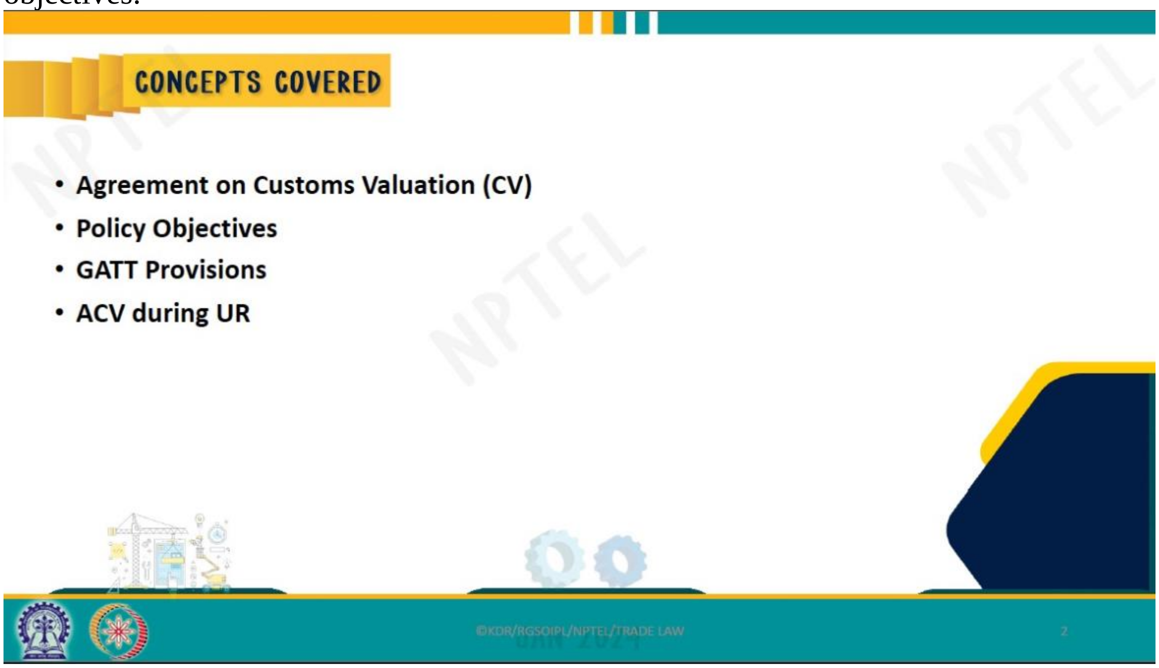
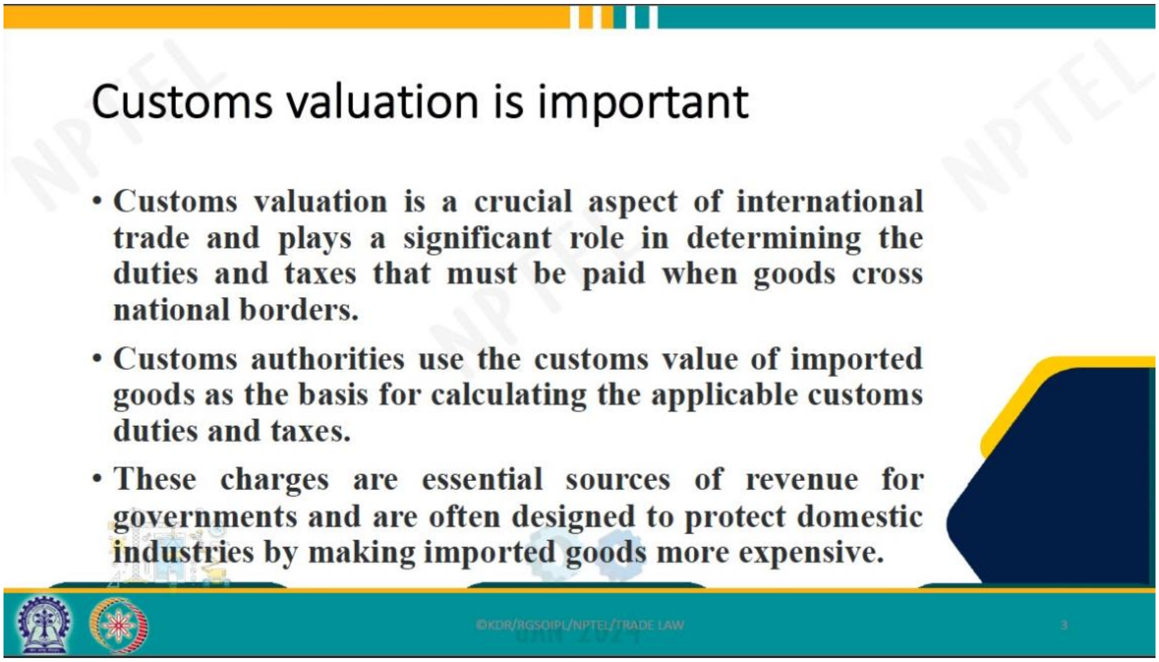
Lecture 27: Agreement on Customs Valuation (CV)

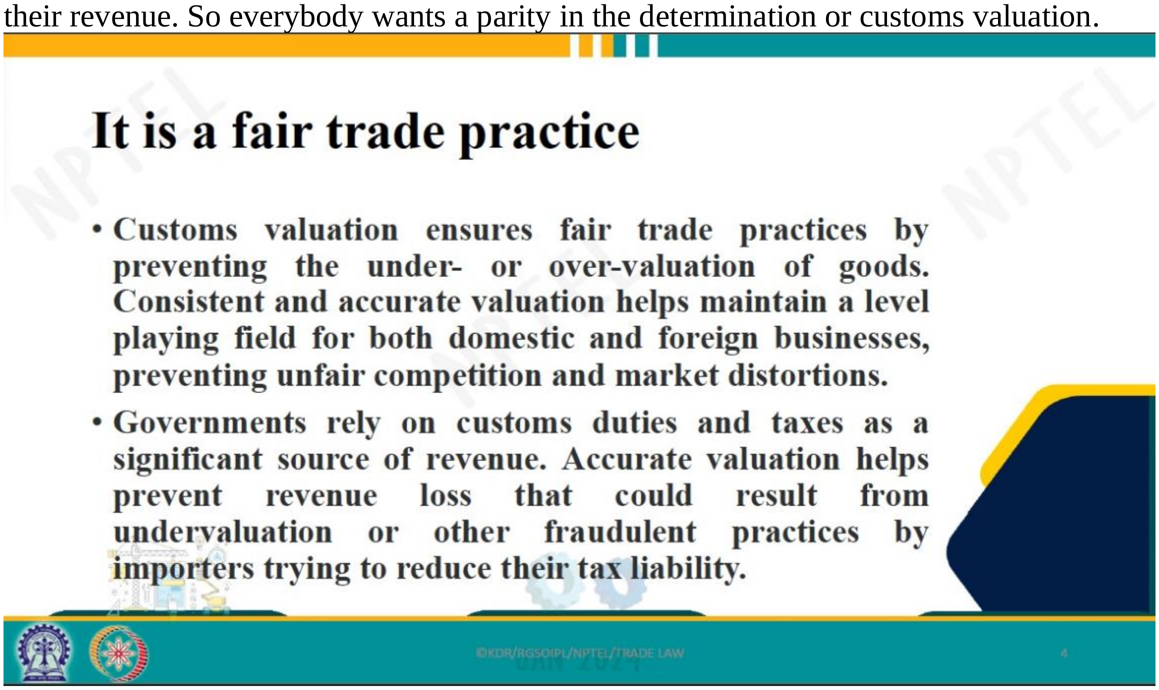
Dear students, this week we are going to discuss about a new WTO agreement which is customs valuation, the agreement on customs valuation. Why we should study this particular agreement? Custom valuation is very important for exports as well as imports because the entire taxation is dependent upon customs valuation because every country's income is on exports. Chunk of the income you can see that most of the income is from exports and imports taxes. And in some of the countries there is a very high level of taxes. In some of the countries the import taxes are very less and some of the countries even it is 0 taxes. So that there can be more and more international trade in those countries. During the 1950s some of the countries the data shows that, the world bank data shows that some of the countries were very highly imposing taxes and now imposes 0 tax. So this is happened in a period of may be 75 years. So these changes severely affect every country. So during the Uruguay around of negotiations the members discussed about a full agreement on customs valuation and also the subsequent policy objectives.



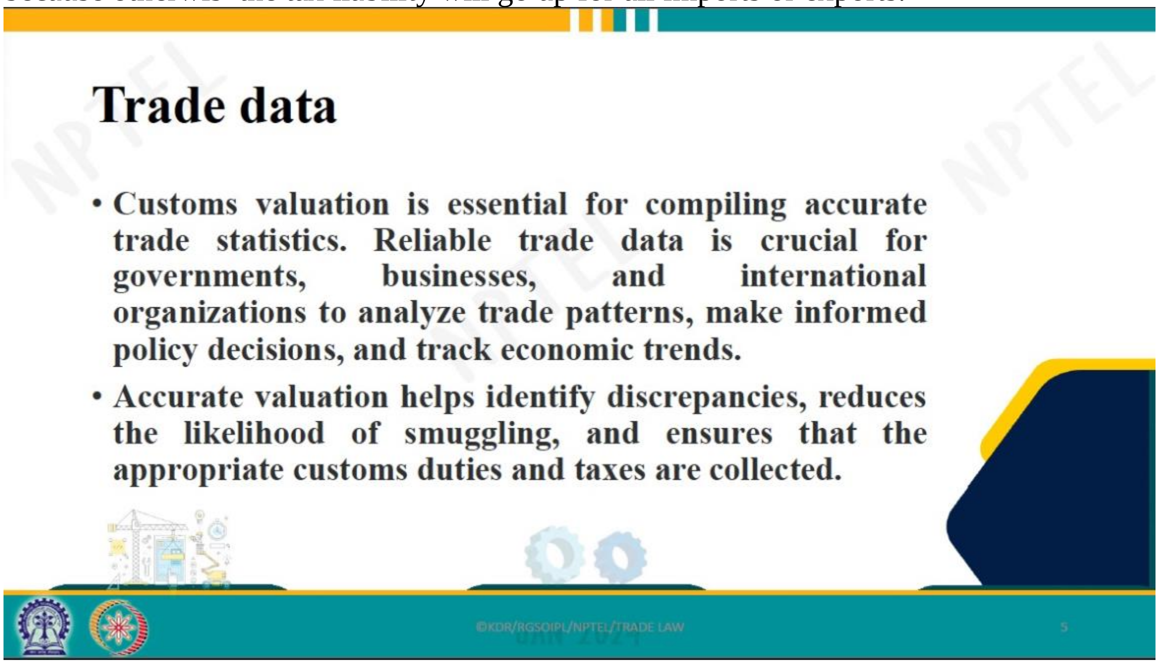
This is mainly to make a uniform law, uniform standards of customs valuation. So that every member country adopts uniform standards. So no discrimination among the members and the methods used for customs valuation are the same methods. So you can see the rudimentary provisions in the GATT agreement and also this customs. So international customs union is one of the oldest international organization which forms standards which forms guidelines on forming customs union.



So the customs valuation is important why because the customs valuation is the basis of imposing duties, taxes, taxes paid crossing the borders, crossing the national borders it can be imports, it can be exports. So, if the customs valuation is discriminatory or different methods are used by different countries, there may be a disparity among the valuation of customs duties. This may become a barrier to trade. So during the Kennedy round of negotiations and Tokyo round of negotiations members discussed this. So we can see the history from 1950 onwards the members discussed about a parity in customs valuation because for every government, this import and export duties are a chunk of their revenue. So everybody wants a parity in the determination or customs valuation.

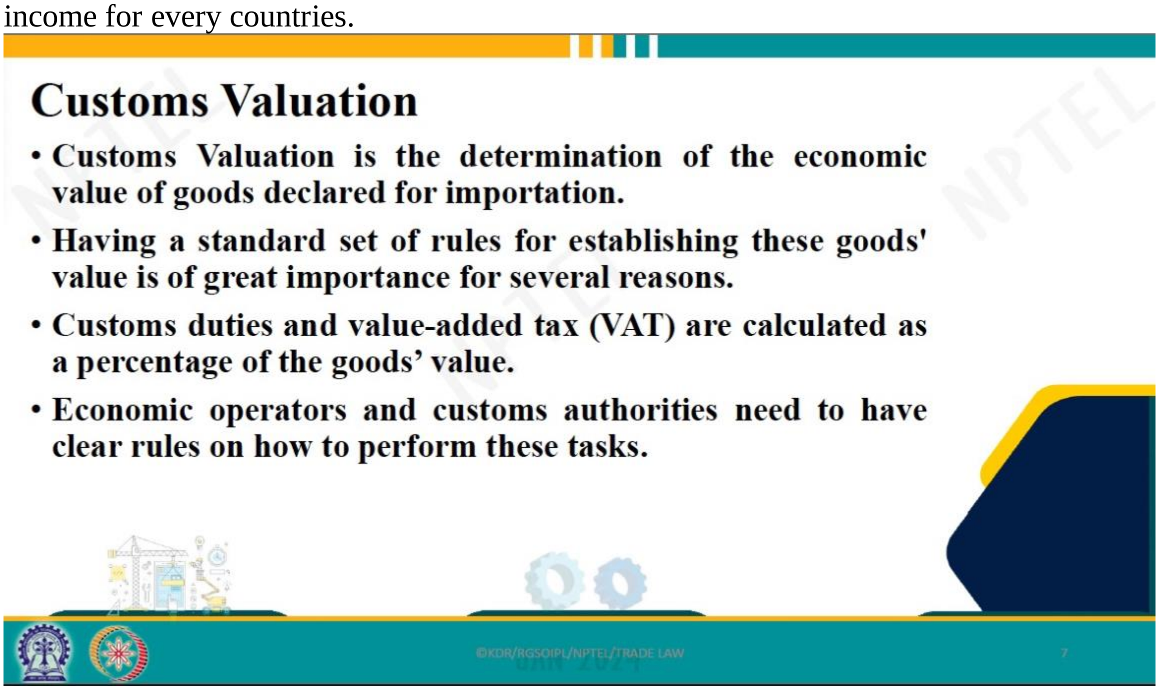


And more importantly the similar methods used for the calculation of customs duties will lead to a fair trade because if everybody use the similar methods so there will be a parity, there will be a fairness in calculation of the customs valuation as well as the consequent duties. So the customs valuation principles help a level playing field for every country. At the same time the non-discrimination between the foreign business and domestic business and maximum trade distortions can be prevented by using the same mode of customs valuation methods. As we said that every governments have customs duties are a source of income. So there cannot be fraudulent practices in making these calculations because otherwis the tax liability will go up for all imports or exports.



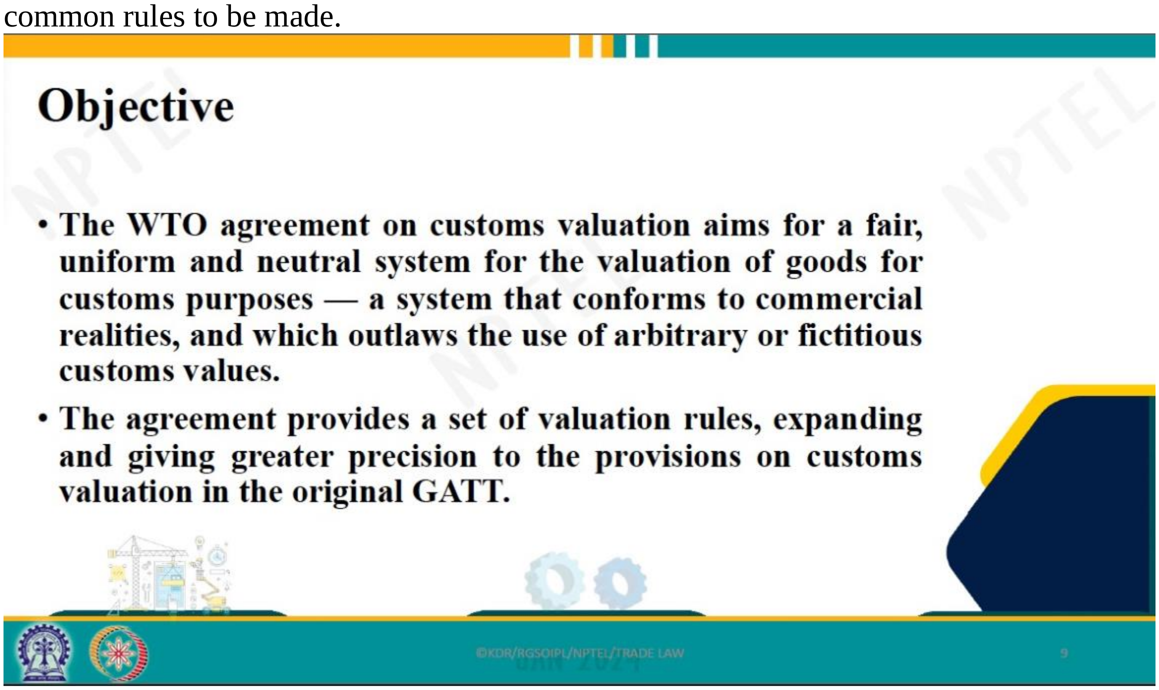
And the entire trade data of every country is based on this valuation. So clear data is maintained by every country based on this customs valuation. So customs valuation reliable data, and every government keeps this particular data for calculating international trade and also their patterns and calculations to be made and to make the economic policies of every country. So accurate valuation helps to identify the discrepancies and also it helps to reduce smuggling and illegal entry of products into the country and more collection of taxes for the government.

And the uniform customs valuation methods leads to transparency because every country knows that this is the method which is to be used for the calculation of taxes, import taxes or export taxes and which makes the free flow of goods across bodies without barriers. So it is a predictable system. So every exporters and every importers know the rules and how the taxes are going to be calculated, how the valuation is going to be made and consequent taxes. So the valuation is very important with regard to collection of duties and the duties are very important for every country because this is a huge source of income for every countries.

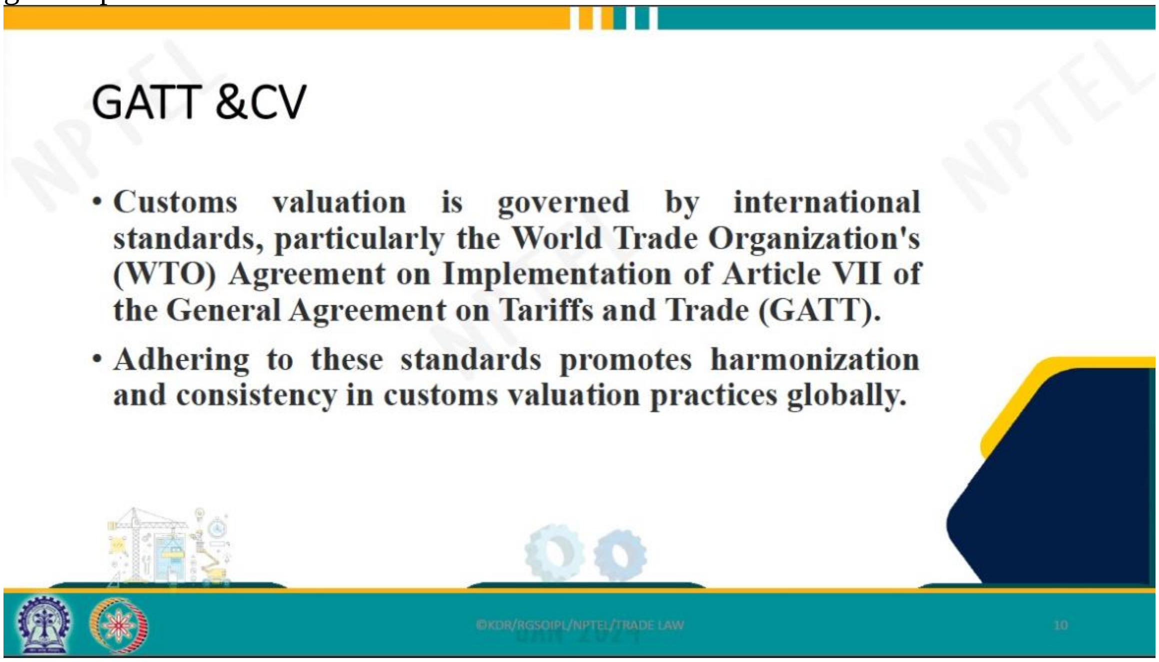


And customs valuation determinations are very important because the customs duties are usually collected on ad-valorem duties. Collected on value added tax, so customs authorities must have the clear rules for the calculation of these valuation methods for collection of duties which will help, these methods will help the customs authorities to collect appropriate taxes based on the correct valuation.

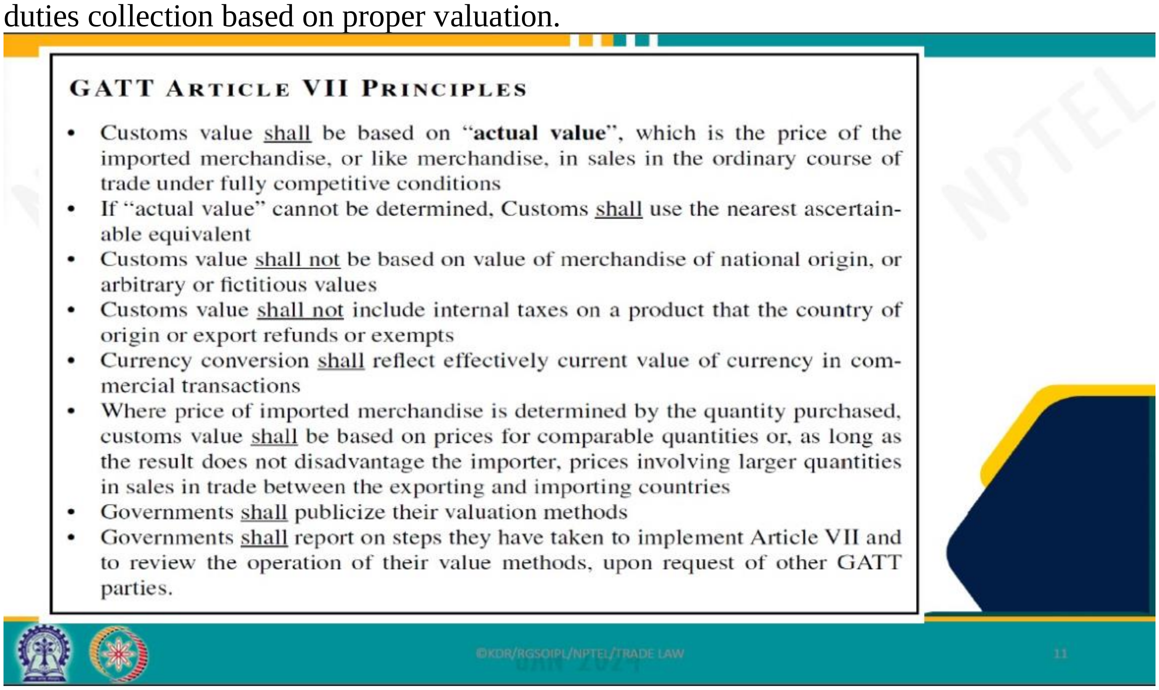
So the policy objectives so the economic policies, valuation policies, commercial policies and India have Exim policy - export import policy, they come out with every year based on the data, based on the export and import data of the previous year. So the government decides the taxes to be reduced or taxes to be increased on different products based on the previous years data. So customs duty calculation is based on customs valuation. So the common rules to be made.



The WTO agreement clearly says customs valuation aims for a fair uniform and neutral system for the valuation of goods for customs purposes. And the system is in conformity with commercial realities of the world and it rejects arbitrary or fictitious customs values calculations. So the agreement provides a set of valuation rules and which provides a greater precision to the calculation of customs value.

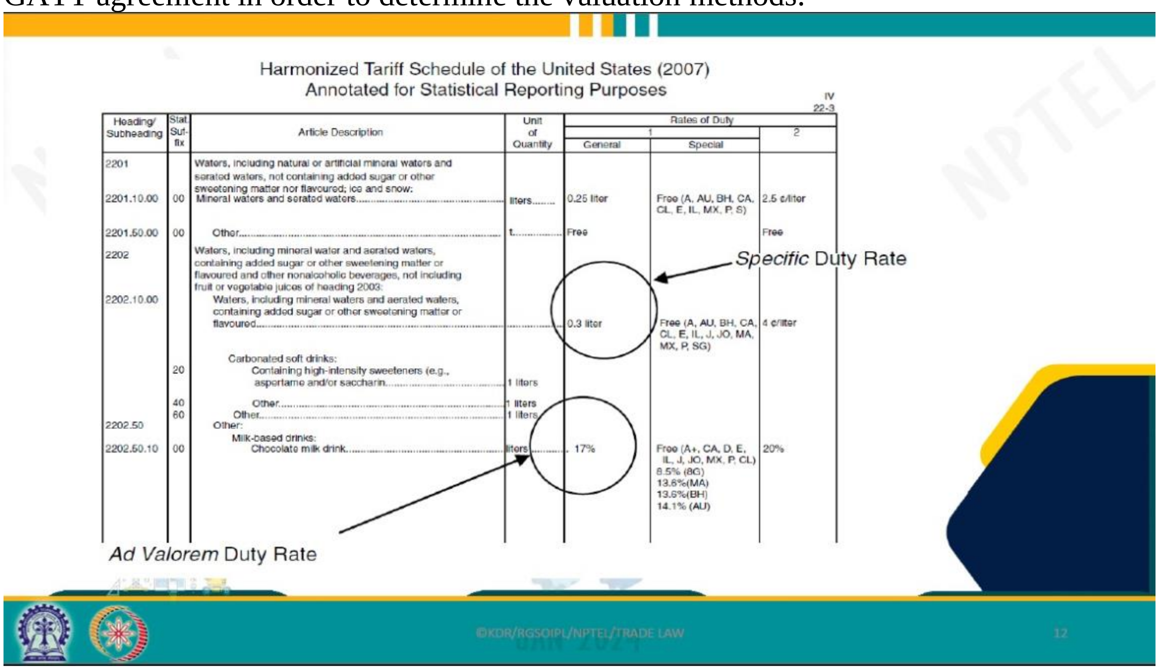


When we look into the GATT provisions Article 7 which talks about customs valuation or harmonization of customs valuation or consistency in custom valuation practices globally. Because the members during the GATT time itself they know that what is the importance of the uniform rules for calculation of customs valuation and the customs duties collection based on proper valuation.



So if you look into the article 7 of the principles what are those GATT principles? So I said that the customs valuation principles are not new to the Uruguay round. From GATT itself it was a subject of discussion. So what was the customs - the GATT rules with regard to customs valuation? So the GATT rules clearly says that the customs value shall be based on actual value. So the actual value is usually the invoice price, invoice price of the merchandise. So in the usual set of reasons, in the usual market, in the open market not under the special circumstances. So the actual value if it is actual value cannot be determined in certain circumstances then the nearest ascertainable equivalent to be taken into consideration. So now under the customs valuation code how these values should be assessed when the actual value cannot be calculated is also given. Various methods are given in the new customs valuation code. And thirdly a customs value shall not be based on value of merchandise of national origin or arbitrary or fictitious values. If there is no rules, the customs authorities can fix arbitrary or fictitious valuations. If there is very clear rules they cannot do this. And also, customs value shall not include internal taxes. Customs valuation so that means export duty is different, import duty is different from the domestic tax collection. And then currency conversions shall reflect effectively current value of the currency in commercial transactions. So now also the currency fluctuations always have a concern for always for exporters and importers it is always a facility. So the quantity, quality and also the currency conversions are a concern. So the price of the imported goods are determined by quantity purchased.

Customs value should be based on comparable quantities, that means comparable quantities it is for a period of time or similar comparable quantities. Prices also because if it is a bulk order the prices may fluctuate from a small order. So that is also to be taken into consideration. And most importantly the transparency provision the government shall publicize their valuation methods in advance. And the government shall report the steps taken to implement Article 7 of the GATT. So in the GATT period itself there was comprehensive provision, preliminary provisions not elaborate provisions where there the GATT agreement in order to determine the valuation methods.

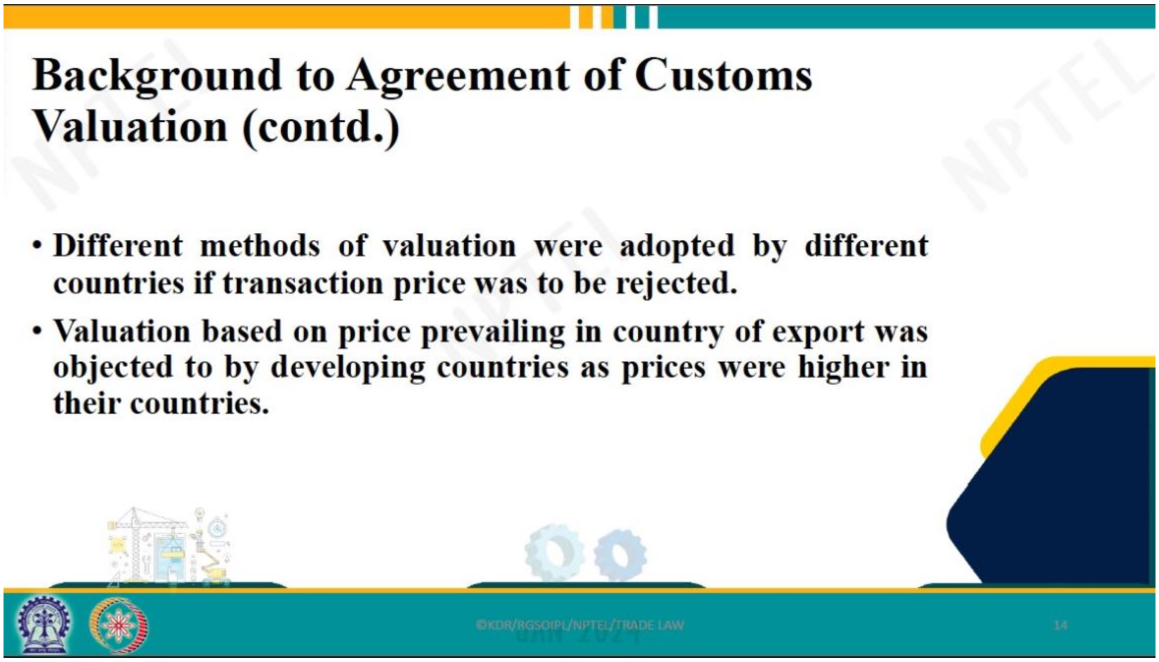

Harmonized Tariff Schedule of the United States (2007)
Annotated for Statistical Reporting Purposes

IV
22-3

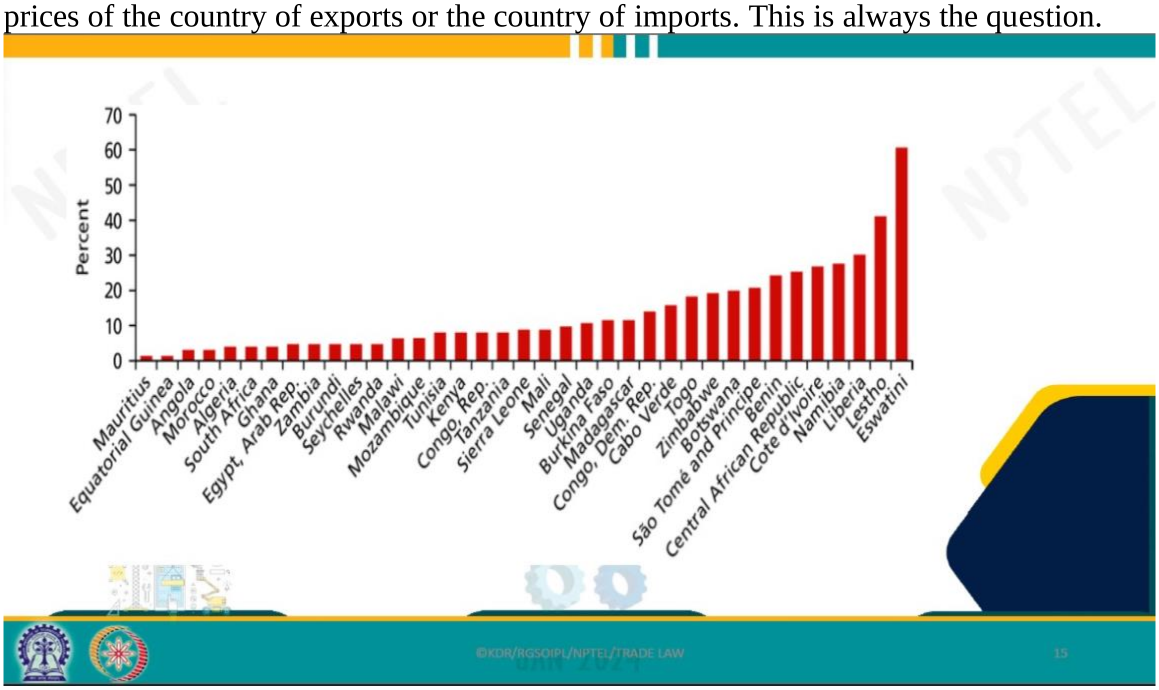
Heading/ Subheading	Stat. Suf-fix	Article Description	Unit of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	2
2201		Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow:				
2201.10.00	00	Mineral waters and aerated waters	liters	0.25 liter	Free (A, AU, BH, CA, CL, E, IL, MX, P, S)	2.5 ¢/liter
2201.50.00	00	Other	t.	Free		Free
2202		Waters, including mineral water and aerated waters, containing added sugar or other sweetening matter or flavoured and other nonalcoholic beverages, not including fruit or vegetable juices of heading 2003:				
2202.10.00		Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured		0.3 liter	Free (A, AU, BH, CA, CL, E, IL, J, JO, MA, MX, P, SG)	4 ¢/liter
		Carbonated soft drinks:				
	20	Containing high-intensity sweeteners (e.g., aspartame and/or saccharin	1 liters			
	40	Other	1 liters			
	60	Other	1 liters			
2202.50		Other:				
		Milk-based drinks:				
2202.50.10	00	Chocolate milk drink	liters	17%	Free (A+, CA, D, E, IL, J, JO, MX, P, CL) 8.5% (BG) 13.6%(MA) 13.6%(BH) 14.1% (AU)	20%

So usually the harmonious tariff schedules this is of US in 2007 which talks about how the ad valorem duty is collected and how the special duty rates are imposed. Mostly, the duties, the customs duties are collected on an ad valorem basis. And also you can see many countries have many provisions.

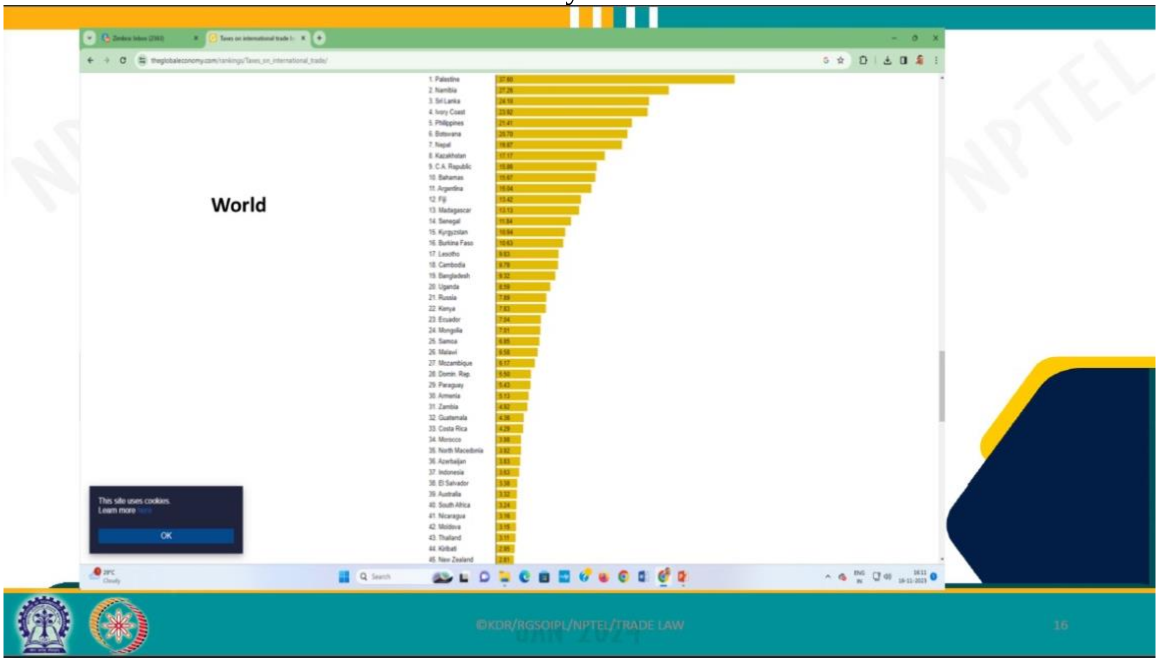
So in 1950 the European government tried to come out with certain definition of value what exactly do you mean by "*Value-Notional Price Concept*". So the Europe come out with a definition of value what exactly mean by value. They come out with a value notional price concept. So if the original value is not available then how you fix notionally the prices. So value notional price concept. And it was considered as a new concept and then the US, Canada, Australia, New Zealand, South Africa, they supported this *Positive Concept*. So they said that the valuation should be based on actual price. So these countries, the positive concept countries, some of the countries did not join, these countries that means the US, Canada, Australia, New Zealand, South Africa, they supported another concept which is opposite to as that of the value notional price concept that is the positive concept. So these countries supported a concept which is just opposite to the European concept and that concept is like actual price for exports or price of domestic consumption in the exporting country. So finally, in Article 7, we saw the provisions of the GATT provisions preliminary provisions. So these discussions has made again the customs valuation become a discussion point during the Kennedy round as well as the Tokyo round. And in the Tokyo round a full code, the customs valuation code was established or came into effect as a part of implementation of Article 7 of GATT. So customs valuation is not new at all, so a full fledged customs valuation code was drafted and adopted in the Tokyo round of negotiations.



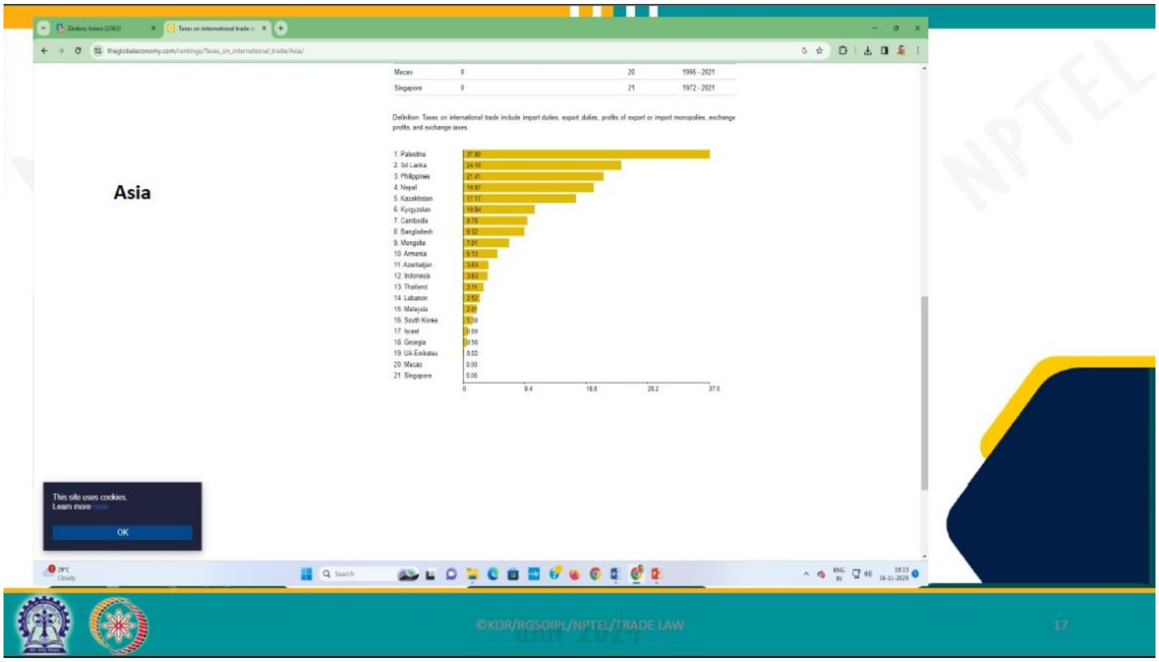
So because every country uses different methods for the valuation which leads to disparity in international trade. So the question is whether it should be based on the prices of the country of exports or the country of imports. This is always the question.



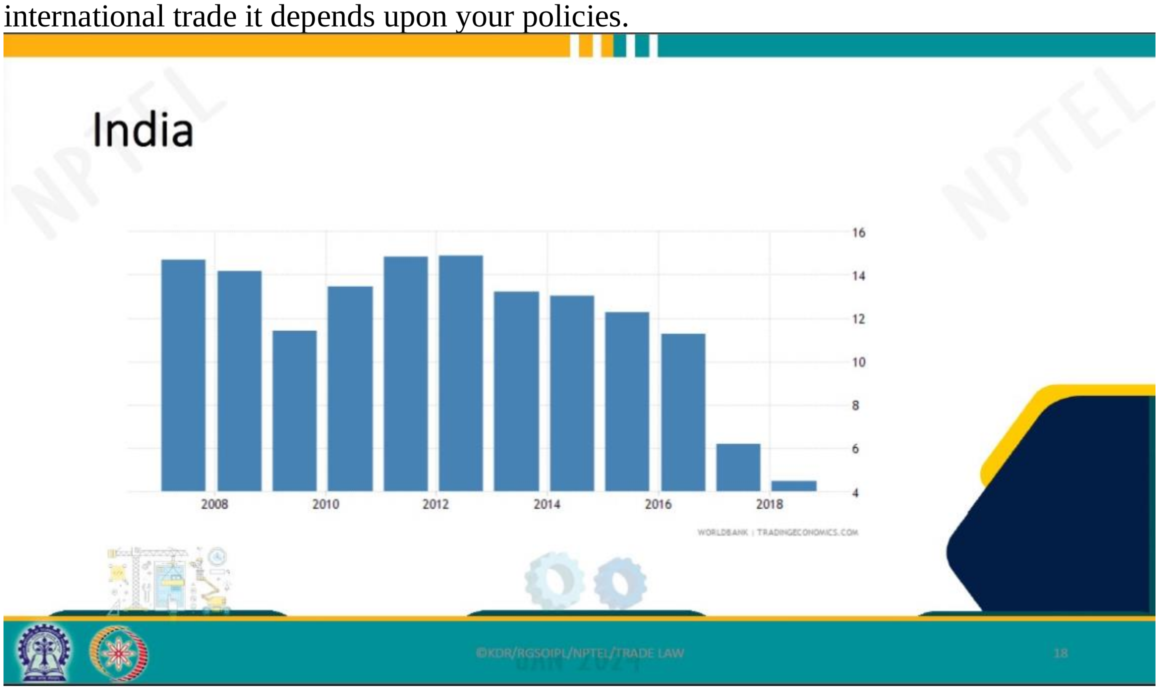
So the customs valuation code was drafted so if you can look into the customs how the it leads to the percentage of taxes. So this table shows the percentage of taxes in these countries on exports and imports international trade. So you can see that some of the highest taxed countries are African countries. So you can see that there is a zero tax regime in Mauritius, at the same time the highest tax regime which you can find even above 50 percent in some of the countries like Lestho, Liberia, Namibia, Central African Republic, Benin, very poor countries. So all the poor countries in a line which you can see that they charge very high on exports and imports and that is why it is a source of income for them. So the taxation is basically based on the valuation.



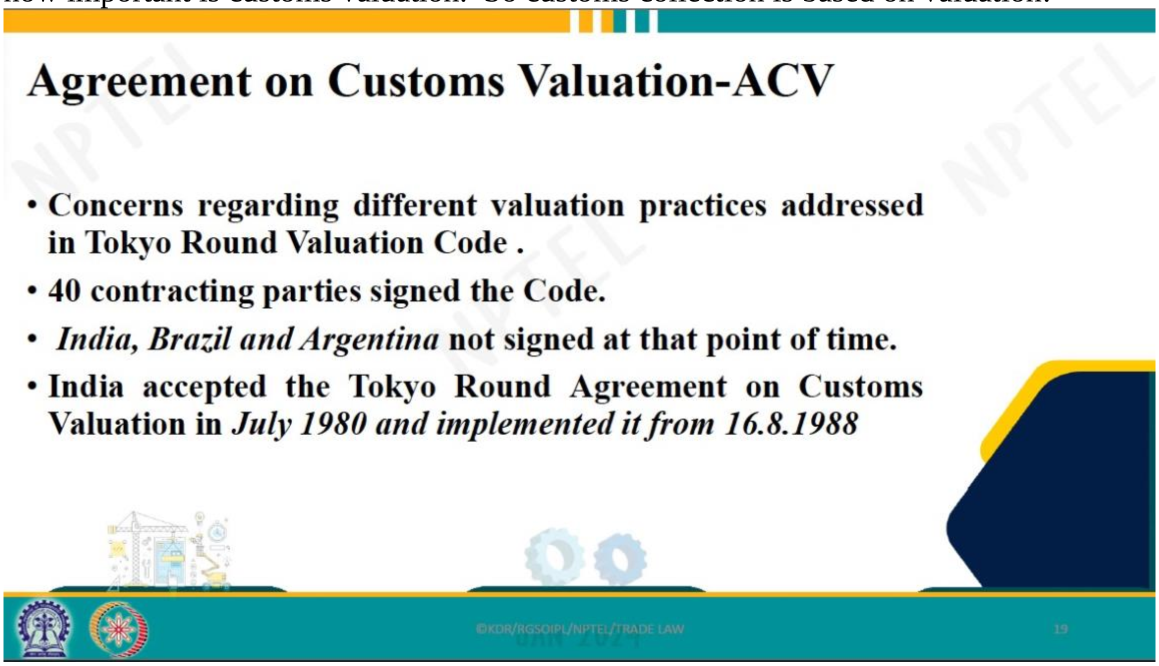
This is the very recent data it is very recent World Bank data which shows and what is the country which is charges, these are some of the countries this matrix is prepared by them and some of the private agencies as well. So they compiled the data together and you can see that and if you would not believe now the West Asia conflict and Palestine is the country the highest in the world which taxed on trade, international trade and it is almost 37 percent, 37.6 percent. Then Namibia then because of the problems, economic problems, Sri Lanka 24 point. So from the Asian countries Sri Lanka is the highest with this taxation 24 percent. Then comes other countries like Philippines, Botswana and one of the least developed countries with the highest taxation system is on international trade is Nepal then Kazakhstan and then other countries like a Bama small countries and then there is a list of countries those who charge highest taxes.



And if you only look into the Asian countries, Asia includes the West Asia that is why the Palestine came and other than Palestine you can see that Sri Lanka is the country with the highest taxed. This tax is only with regard to one international trade export and imports. Then comes Philippines, Nepal, Kazakhstan, Kyrgyzstan, Cambodia, Bangladesh, Mongolia, Armenia, Azerbaijan, and Thailand and it is going on and some of the lowest countries or I would say that zero and zero taxation is in Singapore and if you look into 50 years back Singapore was one of the highest taxed country and now it is a zero taxed country and it is a developed country now. So how you deal with the international trade it depends upon your policies.



So this is India so it was the available source which you can see that it is a World Bank data which shows what was the taxation for the last few years, maybe one decade so 2008 to 2018 so one decade. So it is fluctuating and it is not only fluctuating you can see that in 2008 and what was our taxation and now it is one of the lowest. So it means that our export import is going very high and the taxation is going low but from 2008 to 2016 you can see that it is very high to the tune of maybe 15 percent. Now it is coming down so the taxes are going down in India as well. So the country is economically performing well they have to reduce the taxes so that there will be more export and import will happen. So this we discussed this particular data on the background of how important is valuation, how important is customs valuation. So customs collection is based on valuation.



Then we come to the agreement on customs valuation. So, in the agreement, we already said that a full-fledged code was formed in the Tokyo round of negotiations, and in the Tokyo round of negotiations there were 40 contracting parties signed the code. India, Brazil, Argentina. India and Brazil, two developing countries, Argentina not signed the code at that point of time. So India accepted the code after many years in 1988. So many years after so that means in 1979 the Tokyo round was concluded maybe after nine years India signed and accepted the customs valuation code, and they implemented it.

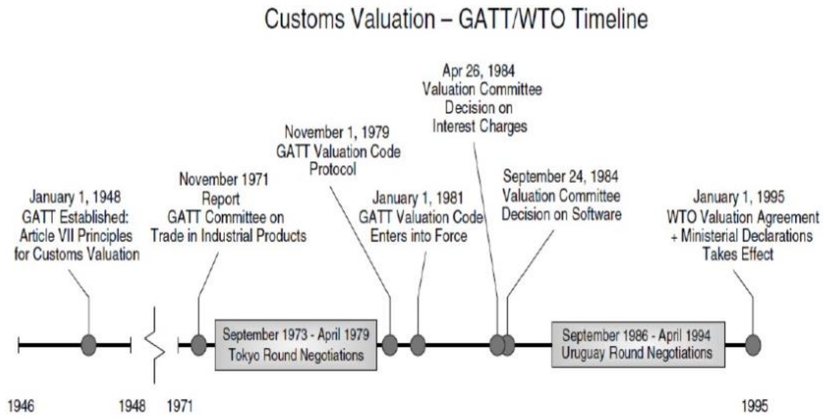


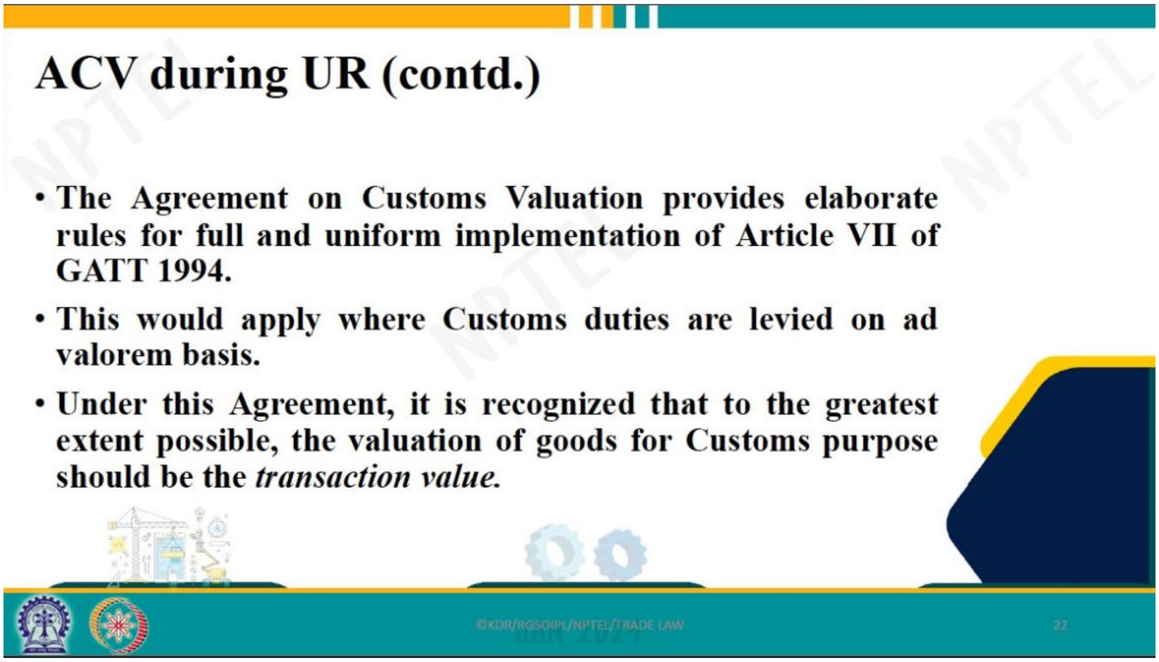
Figure 3 GATT/WTO customs valuation timeline

So if you look into the complete history of the customs valuation from GATT to WTO you can see that in 1947 the GATT and then Article 7 is included in the GATT agreement in 1947 then comes some of the proposals from the European Union and other people in 1950s then it goes on the negotiations in the Kennedy round and the Tokyo round, then the Tokyo round finally, the customs valuation code and also you can see that 1971 a report was prepared by the GATT committee on trade in industrial products. So the GATT customs valuation code was adopted in 1979 in 1981 it enters into force and also the customs committee has come out with certain decisions in 1984 as well and 1995 the Uruguay round of negotiations come out with the complete customs valuation agreement and it is effective from 1995.

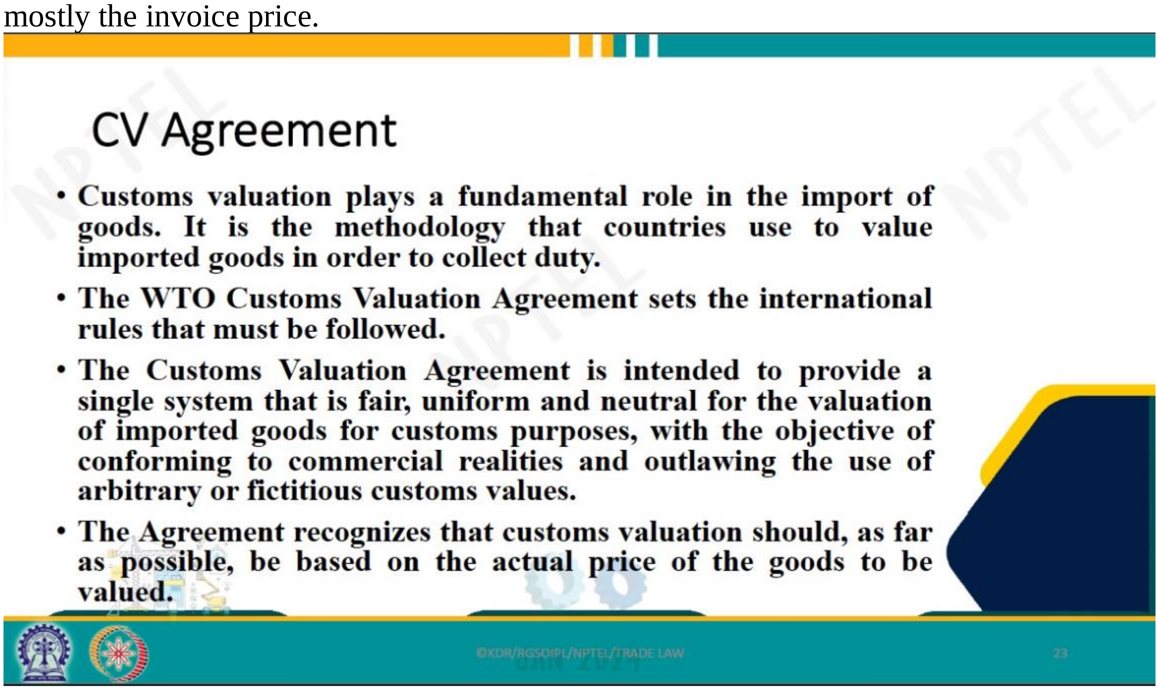
CV during UR

- **CV is same as the 'Customs Valuation Code' of the Tokyo Round**
- **Countries were bound to sign it on account of 'Single Undertaking' nature of UR Agreements**
- **Major features of UR Round: Ministerial Decisions concerning**
  - **(i) Cases where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value;**
  - **(ii) Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires.**

So during the Uruguay round of negotiations, customs valuation was again discussed especially the focus was on different methods of calculation of customs valuation and we know that the administrative mechanisms for collection of the customs duties - every country has to maintain separate offices for the collection of customs valuation and customs duties.



So elaborate rules and provisions were given under article 7 implementation of article 7 in the Uruguay round of negotiations and also you can see that for all customs purposes, the value is considered to be the transaction value. Transaction value is the invoice price mostly the invoice price.



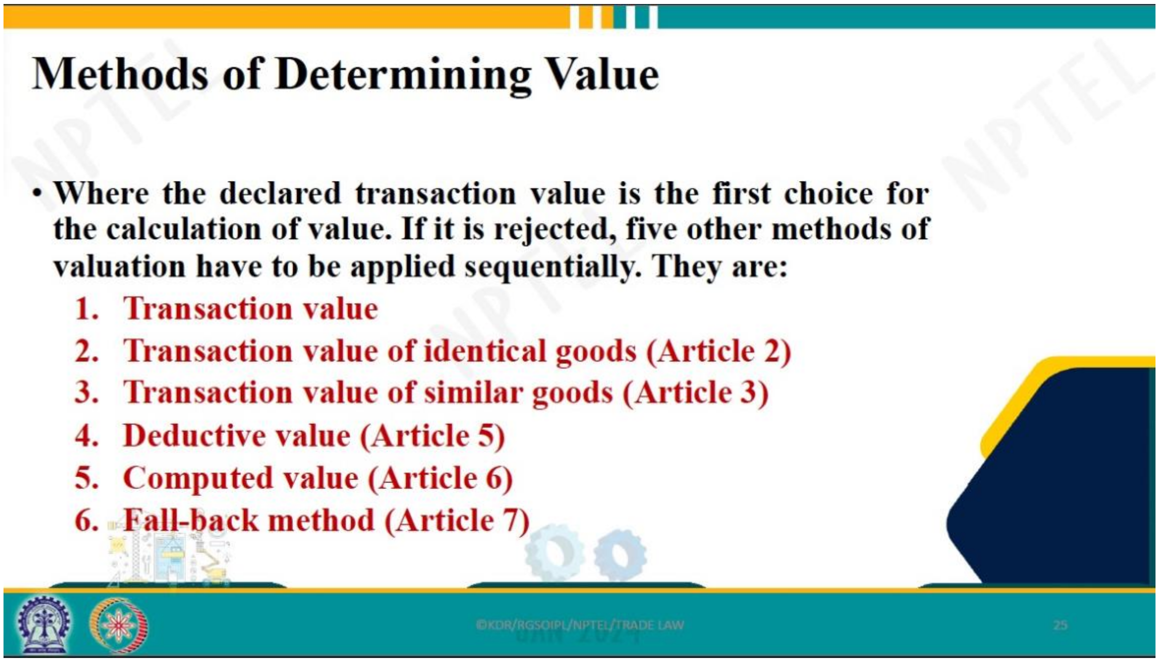
So we will see all different methods of calculation but again the Uruguay round reiterated the importance of customs valuation and customs valuation methodologies for calculating the customs value. So now 164 member countries to follow these methods only which is provided under the Uruguay round of negotiations. So the intention, the aim of the customs valuation agreement is very clear - uniform and neutral valuation methods for customs purposes. So the agreement recognizes that the valuation should be made on the value, the price, the actual price of the goods. So how the actual price of the goods is calculated there are six methods which are prescribed in the agreement that we will see later.

Trade Taxes as a Share of Total Tax Revenue

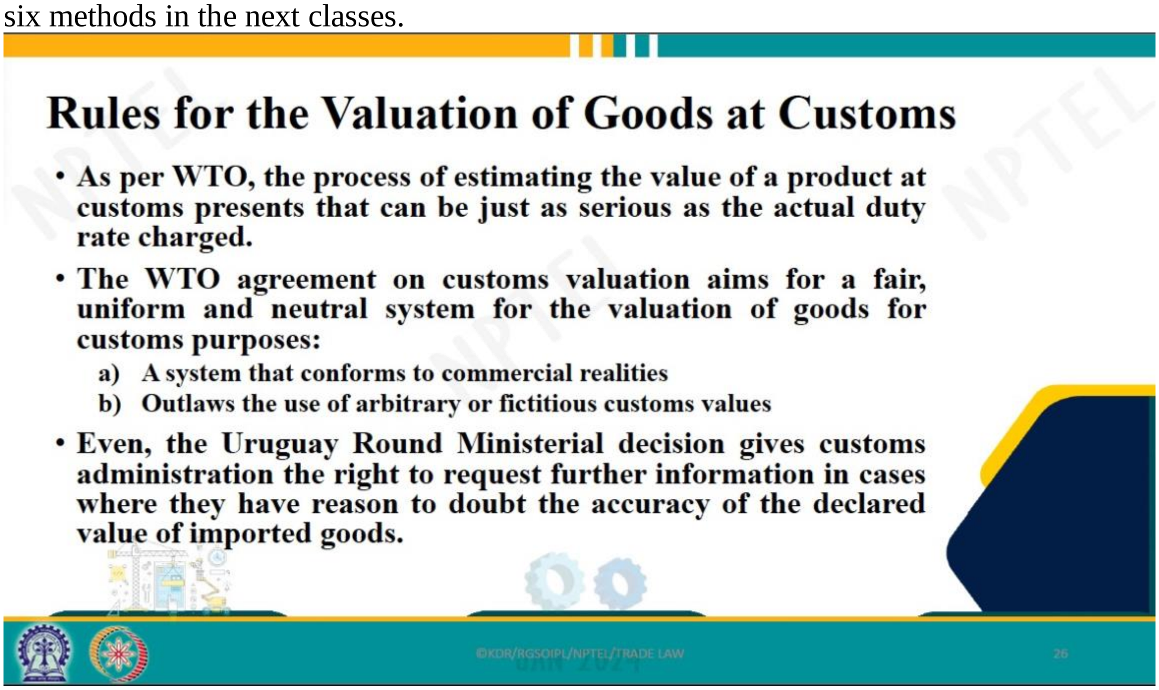
Region All Countries	1980	1990	1998
OECD 1/	4.7	2.7	1.1
Non-OECD	24.2	20.5	17.7
Africa	38.6	31.9	37.5
Asia and Pacific	29.0	27.6	19.2
Middle East	31.7	28.9	25.2
Western Hemisphere	24.9	14.3	14.2

Sources: Various issues of: IMF, *Government Financial Statistics* and *World Economic Outlook*; OECD, *Revenue Statistics*.
1/ Excluding Czech Republic, Hungary, Luxembourg, and Poland.

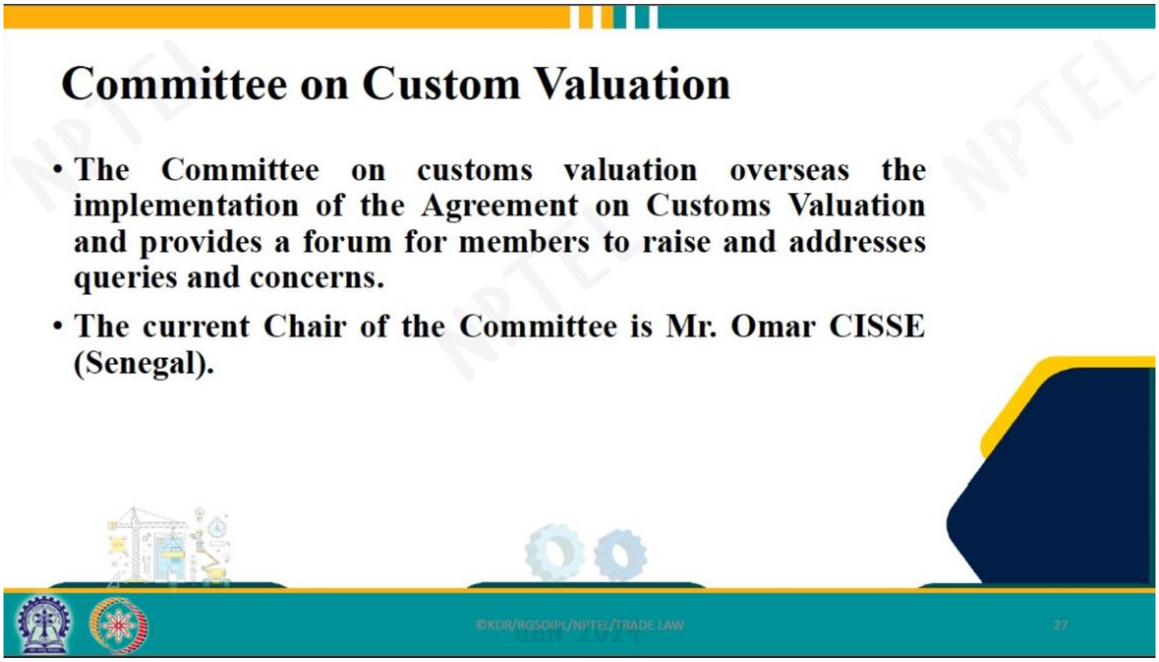
So here you see the taxes, trade taxes, the share of total tax in 1998 that means immediately after the WTO. So many countries taxed very high before WTO before 1995 and even the OECD countries, developed countries the taxation was 4.7 in 1980, it became 1.1 after the WTO and in Asian countries it was 29 percent it became 19 per cent, there is a substantial reduction but Africa if you look into there is no much changes at all it was 38 per cent and it is 37 per cent. So I said Africa still after 27 or 28 years of the constitution of WTO still Africa is the highest taxed countries in the world on international trade and Middle East also there is substantial reduction, other countries in West also there is reductions, but Africa is considered continued to be the highest taxed. So this shows that the source of income mainly is from international trade.



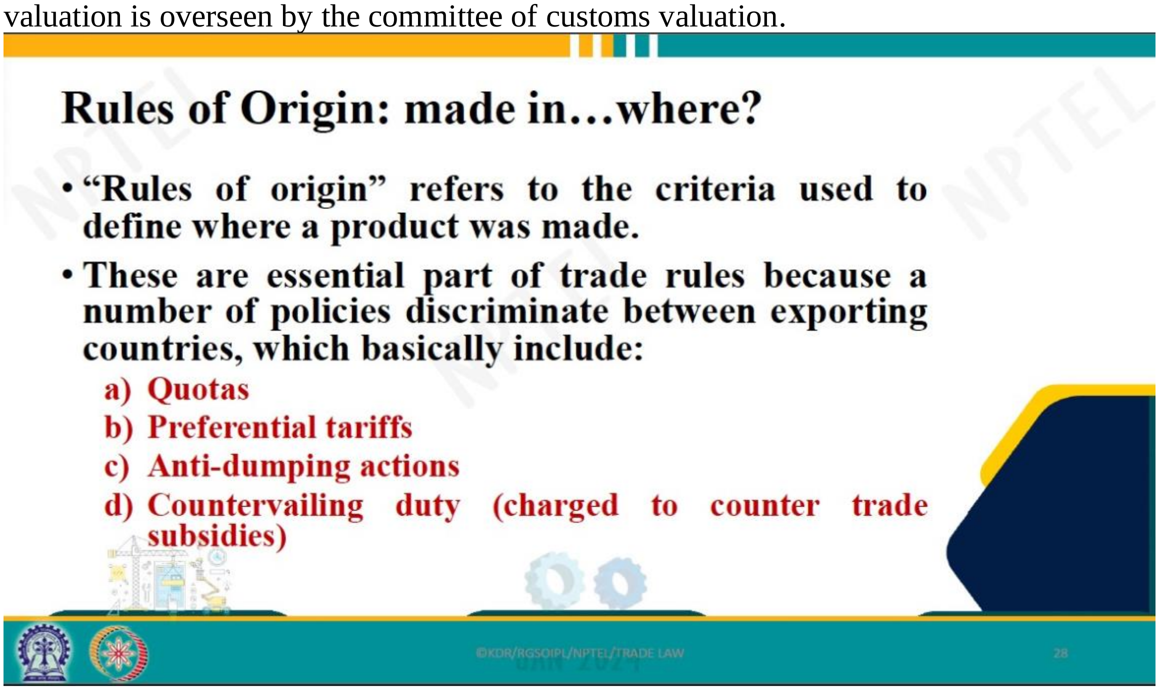
And what are the methods of determining value. So we said that the value should be based on actual price. So how the actual price is to be determined, the valuation methods are clearly given in the customs valuation code. There are six methods which are mentioned and these are: first is transaction value, the second is transaction value of identical goods, third is transaction value of similar goods, fourth is deductive value, fifth is computed value and sixth is Fall-back method. We will discuss elaborately about the six methods in the next classes.



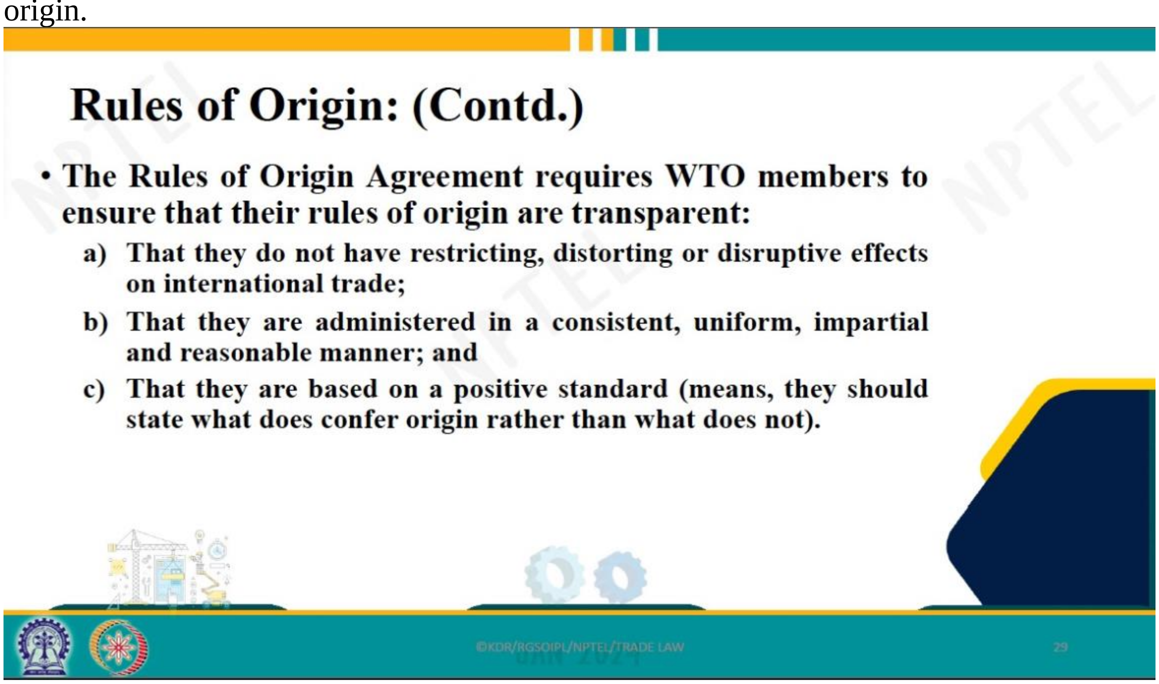
So here the rules for valuation according to the WTO rules, very clearly says that these methods, six methods are adopted in conformity with the commercial realities of the present world and these methods are going to eliminate all form of arbitrary or fictitious customs valuations. So the customs valuation now is to be transparent, it should be reported to the WTO from time to time, all the methods to be reported to the WTO committee on customs valuation and declared value of every goods is to be reported.



The committee on customs valuation is based on implementation of the customs valuation is overseen by the committee of customs valuation.

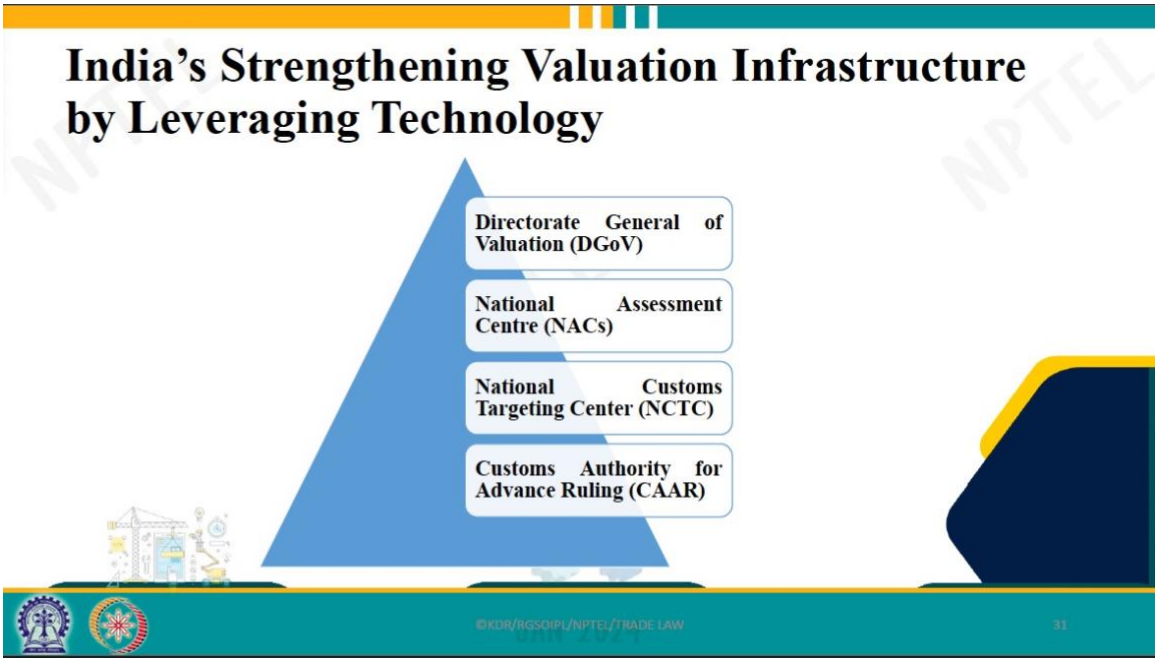


And the rules of origin are also very important for customs because where the goods are coming from that is very important for imposing taxes. At the same time you can see that there is another agreement which is known as rules of origin agreement because nowadays there are many regional trade agreements, many free trade agreements and most of the countries try to push the goods through these free trade agreements so that there will be a lower taxation. So it is very essential to look into the origin of goods originating. This is to determine quotas, preferential tariffs and also anti-dumping actions. So you may not impose anti-dumping actions against a importing country if the goods are not originally from that particular country and imposition of countervailing duties. So all these are very important with regard to where the goods originate from - the rules of origin.

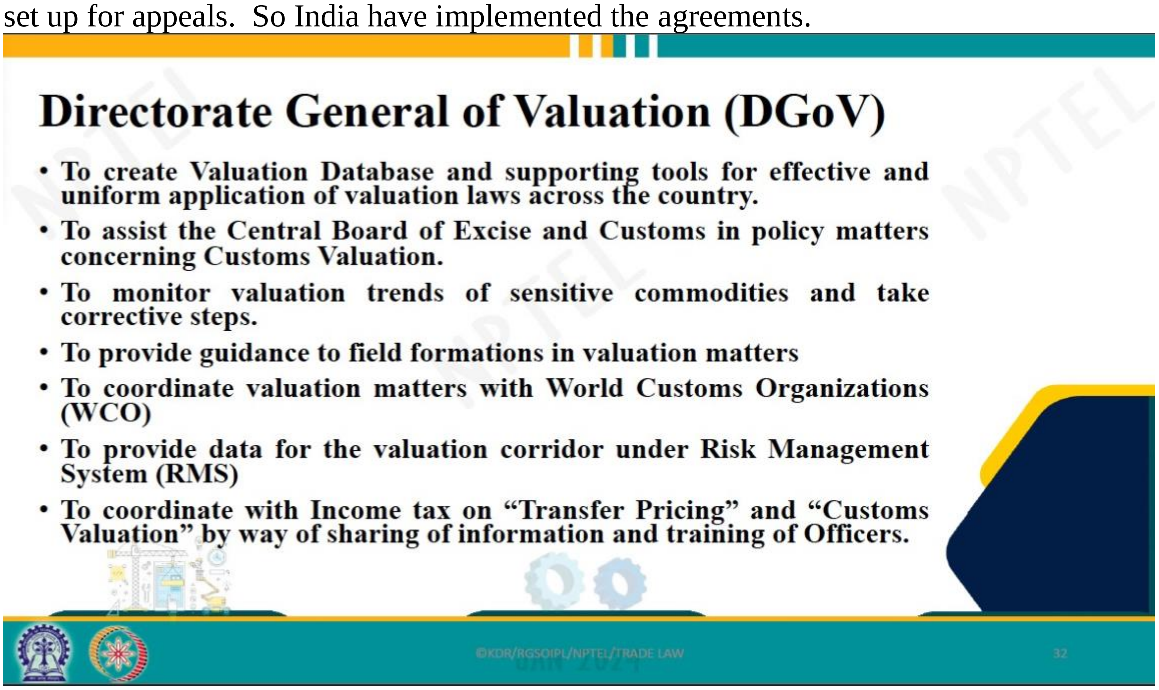


So and also the distortions in order to understand the distortions you have to really identify the origin of the particular products and also the positive standards. So the uniform standards on all the countries based on the rules of origin.

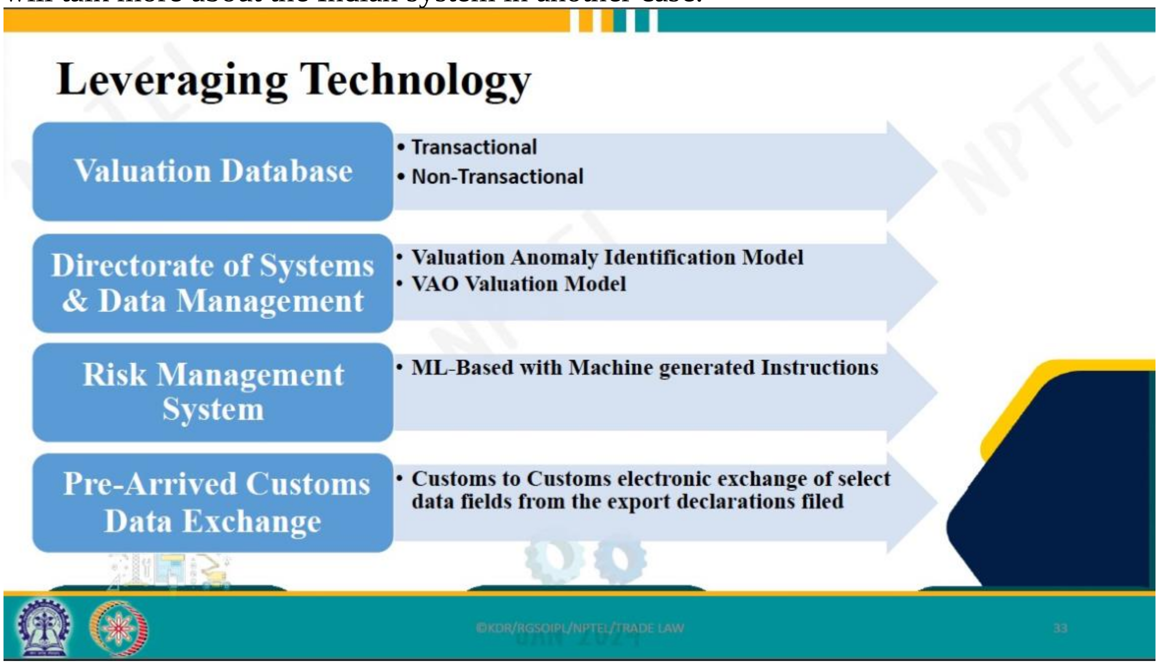
So far there are 18 disputes of customs valuation came to the WTO which shows that there is a substantial number of cases 18 which shows that there are disputes with regard to customs valuation.



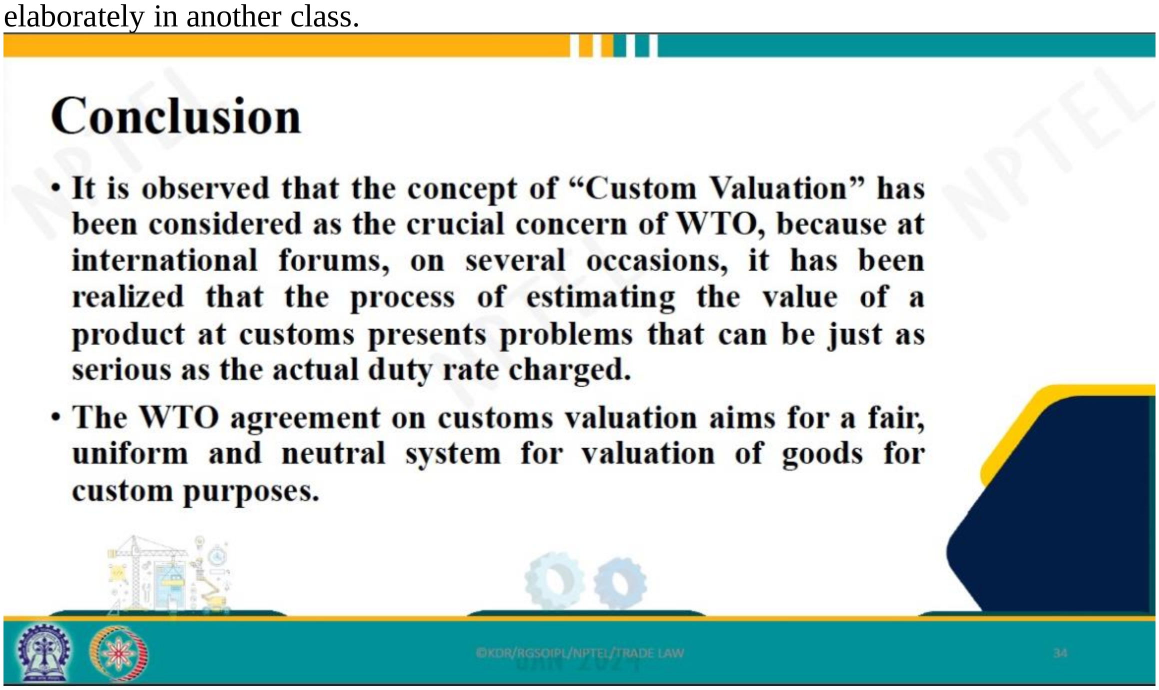
If you look into India, India has adopted even the Tokyo round of negotiations code and the WTO agreement and with the advent of technology we use as the technology for the customs valuation and the different institutions are made Direct General of Valuation (DGoV), National Assessment Centre(NACs), National Customs Targeting Centre(NCTC), Customs Authority for Advance Ruling(CAAR) - that is administrative set up for appeals. So India have implemented the agreements.



So the Direct General of Valuation (DGoV) is spearheading the entire process. So the valuation databases and supporting tools and assisting the Central Board of Excise and Customs in policy matters considering the customs valuation and also the monitoring of valuation trends of certain commodities and also the Direct General of Valuation (DGoV) to coordinate valuation matters with the World Customs Organization(WCO) and also the risk management another objective and coordination with the income tax authorities on transfer pricing, customs valuation and sharing information between different departments. This is also the Direct General of Valuation (DGoV) is doing. I think we will talk more about the Indian system in another case.



So but India has used the technology also in valuation of databases and the valuation anomalies can be easily identified and the valuation can be even determined on the pre-arrived customs data exchange basis. So the technology also plays a very important role in customs valuation nowadays. So the customs valuation in India we will deal elaborately in another class.



So in conclusion I would say that the customs valuation is very important for every country including India because your entire collection of revenue, import taxes, export taxes are based on these customs valuation. And it is imperative for every WTO country to have application of non-discrimination so you cannot discriminate between countries so these uniform standards are very important. So the WTO agreement of customs valuation which provides for a fair, uniform, neutral system of valuation of goods for the customs purposes and we will see more about the different method of calculation of customs valuation in the next class.

Thank you.