

**INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE
AGREEMENT ON CUSTOMS VALUATION**

Checklist of Issues

ARMENIA

The following communication, dated 15 July 2003, has been received from the Permanent Mission of Armenia.

The WTO Notification Agency in the Republic of Armenia submits the attached responses to the points contained in the checklist.

1. Questions concerning Article 1:

(a) Sales between related persons:

(i) Are sales between related persons subject to special provisions?

The criteria determining related persons are provided in **Article 78** of the Customs Code of the Republic of Armenia entered into force from 1 January 2001. Provisions concerning the sales between related persons are incorporated in **the paragraph 2 (e) of Article 87 and paragraph 1 (h) of Article 88** of the Customs Code.

(ii) Is the fact of intercompany prices prima facie considered as grounds for regarding the respective prices as being influenced?

Paragraph (2) (d) of Article 87 provides for the acceptance of transaction price between related persons as long as the relationship did not influence the price.

(iii) What is the provision for giving the communication of the afore-mentioned grounds in writing if the importer so requests? (Article 1.2(a))

Paragraph 1 of Article 95 and paragraph 2 of Article 96 of the Customs Code are the general provisions for giving valuation related communication.

Paragraph 1 of Article 95 provides that the importer upon written request should be entitled, within five working days to receive a written explanation of valuation decision and the method used by the customs bodies. The mentioned provisions are also incorporated in the paragraph 2 of Article 96.

(iv) How has Article 1.2(b) been implemented?

The paragraph 2 (e) of Article 87 and paragraph 1 (h) of Article 88 of the Customs code provide grounds for examination of the transaction value in case of sale between related persons. If it is ostensibly low, then, according to the paragraph 3 of Article 88 of the Customs Code, the customs value should be determined according to the provisions incorporated in Articles 89 through 94 of the Customs Code.

(b) Price of lost or damaged goods:

Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?

There are no provisions in the Customs Code with respect to the special arrangements for determination of the Customs valuation of damaged goods.

2. How has the provision of Article 4 to allow the importer an option to reverse the order of application of Articles 5 and 6 been implemented?

Article 94 (Paragraph 2) of the Customs Code provides the possibility of reversal of the order of application of the valuation methods specified in Article 5 and 6 of the Customs Valuation Agreement upon request of an importer.

3. How has Article 5.2 been implemented?

Article 91 (Paragraph 4) of the Customs Code includes provisions regarding the circumstances specified in Article 5.2 of the Customs Valuation Agreement.

4. How has Article 6.2 been implemented?

Article 92 (Paragraph 2) states that, for the purposes of determination of Customs value, Customs Authorities of RA may, at the producer's consent, verify the information provided by the producer for determination of Customs value in some other country, after notifying in a due order the government of that country of their intention to conduct a verification, if the government of that country does not object the conduct of such a verification.

5. Questions concerning Article 7:

(a) What provisions have been made for making value determinations pursuant to Article 7?

Article 93 of the Customs Code provides for the determination of customs values when none of the other available five methods can be applied.

(b) What is the provision for informing the importer of the customs value determined under Article 7?

Paragraph 1 of Article 95 and paragraph 2 of Article 96 of the Customs Code are the general provisions for giving valuation related communication.

(c) Are the prohibitions found in Article 7.2 delineated?

Article 93 of the Customs Code defines prohibitions mentioned in Article 7.2. with the following content:

“When the customs value of the goods carried across the customs border of the Republic of Armenia cannot be determined under the above rules stipulated in this section, the customs value of the goods shall be determined by other means consistent with the principles and general provisions of the General Agreement on Tariffs and Trade - on the basis of data available in the Republic of Armenia. The customs value cannot be determined on the basis of:

- a) the selling price in the Republic of Armenia of the goods produced in the Republic of Armenia for determining the customs value of the imported goods;
 - b) a system which provides for the acceptance for customs purposes of the higher of two alternatives;
 - c) the price of the goods on the domestic market of the country of export for the calculation of the customs value of the imported goods;
 - d) the costs of production, except for the computed values determined for the identical or similar goods under Article 92 of this Code;
 - e) the price of the goods envisaged for export to other countries;
 - f) minimum or maximum customs values;
- arbitrary values.”

6. How have the options found in Article 8.2 been handled? In the case of f.o.b. application, are ex-factory prices also accepted?

Article 83 of the Customs Code provides for the inclusion of the mentioned cost items in the customs value. In the case of f.o.b. application ex-factory prices are not accepted.

7. Where is the rate of exchange published, as required by Article 9.1?

The exchange rate applied by the Customs is derived from the daily foreign exchange auctions held by the Central Bank of Armenia. The Central Bank announces exchange rates daily and these rates are published in the press and posted in accounting offices of the Customs bodies.

8. What steps have been taken to ensure confidentiality, as required by Article 10?

The provisions concerning the mechanism for the protection of confidential information are incorporated in **the paragraph 2 of Article 95** of the Customs Code.

9. Questions concerning Article 11:

(a) What rights of appeal are open to the importer or any other person?

The Article 96 of the Customs Code provides for appeal procedures concerning the decisions and actions of customs bodies to the superior customs body or to the court. The superior customs body should make its decision regarding the appeal and inform the applicant about the decision within one month.

(b) How is he to be informed of his right to further appeal?

Paragraph 2 of Article 96 of the Customs Code provides for keeping the importer informed of the refusal of the declared customs value and the reasons for that along with importer's appeal opportunity.

10. Provide information on the publication, as required by Article 12, of:

- (a) (i) the relevant national laws;**
- (ii) the regulations concerning the application of the Agreement;**
- (iii) the judicial decision and administrative rulings of general application relating to the Agreement;**
- (iv) general or specific laws being referred to in the rules of implementation or application.**

Relevant national laws, regulations, decisions and rulings are published in the Bulletin of the Government of Armenia or in the Manual of the National Assembly of the Republic of Armenia.

- (b) Is the publication of further rules anticipated? Which topics would they cover?**

Yes. One is intended to establish the procedure of determination of the greatest aggregate quantity of goods imported into the country.

11. Questions concerning Article 13:

- (a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?**

Article 96 (Paragraph 1) of the Customs Code provides the following:

"If the Customs Authorities find it necessary to determine or verify the Customs value of the goods declared by the declarant, then Customs formalities shall be carried out according to the Customs value (transaction price) declared by the declarant, provided 30 days Bank Guarantee is available for the disputed amount on condition of further final settlement in compliance with the final decision made."

- (b) Have additional explanations been laid down?**

No additional explanations have been laid down.

12. Questions concerning Article 16:

- (a) Does the respective national legislation contain a provision requiring customs authorities to give an explanation in writing as to how the customs value was determined?**

Article 95 (Paragraph 1) of the Customs Code provides, that the importer upon a written request should be entitled, within five working days, to receive a written explanation of a valuation decision and of a method used by the customs bodies.

- (b) Are there any further regulations concerning an above-mentioned request?**

There are no further regulations.

13. How have the Interpretative Notes of the Agreement been included?

Article 82 (2) gives general provisions to the Interpretative Notes of the Agreement. In addition, Government Decree N 2170-N dated 12.05.2002 is the legal basis for its implementation during customs valuation.

14. How have the provisions of the Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods been implemented?

Article 85 (c) of the Customs Code provides for exclusion of interest charges from the customs value.

15. For those countries applying paragraph 2 of the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment, how have the provisions of this paragraph been implemented?

Article 85 (d) of the customs Code provides for exclusion of the value of data from the customs value of carrier media.
