

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

Checklist of issues

BAHRAIN

The following communication, dated 23 January 2008, is being circulated at the request of the delegation of Bahrain.

1. Questions concerning Article 1:

(a) Sales between related persons:

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

In a sale between related persons, the transaction value is accepted and the goods valued in accordance with the provisions of the Customs Valuation Agreement (CVA). In case doubts exist that price of the imported goods has been influenced by relationship between the importer and seller, and then such case is dealt according to "Conditions of the transaction value" point 4. of the Rules of Implementation, of the Common Customs Law which is applied in accordance with Ministerial Order No 3 of 2003, dated 2nd July 2003.

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

"Prices of the goods of the international firms" are not considered influenced by relationship except in case of application of Article 1.2 of the CVA, to them, and that the price is duly found to be influenced by relationship.

(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))*

In case an importer requests the Customs in writing to be advised of the grounds for regarding the respective prices as being influenced by relationship, then he is notified in writing of the grounds reached during scrutiny of the information furnished by him in connection with the circumstances surrounding the sale.

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

The transaction value in a sale between related persons is accepted and the value is determined according to the Rules of Implementation, of the Common Customs Law which is based on CVA, if the importer demonstrates that such value of the imported goods closely approximates, at or about the same time, to one of the values noted below:

1. the transaction value of identical or similar goods in sales to unrelated buyers for export to the same country of importation;
2. the customs value of identical or similar goods as determined under the Clause for Bases of Customs Evaluation using Deductive Value;
3. a customs value of identical or similar goods as determined under the Rules of Implementation of the Common Customs Law, which is based on Article 6 of the CVA (Computed Value).

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, and elements enumerated in the Clause II: Adjustment to the Transaction value of the same Article and costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.

Article 1.2(b) is implemented upon request by the importer and for comparison purposes only. It may not be adopted as alternative values in accordance with that Article.

(b) Price of lost or damaged goods:

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

1. If all goods in the shipment are damaged, the transaction value is not applicable because the price actually paid or payable do not cover the goods in damaged state.
2. If the shipment is exposed to partial damage, then the transaction value can be used for the part not damaged. As far as the damaged part is concerned, its value is assessed according to its condition at the date of registering the Customs Declaration in accordance with the Common Customs Law Article 18, which is applied in accordance with Ministerial Order No 10 of 2002, dated 18th June 2002.

Regarding the lost goods, the transaction value is not applied because such goods basically did not arrive.

Provisions concerning the valuation of damaged goods: their value is determined according to their condition at the time of registering the Customs Declaration.

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

The Computed Value (Article 5) is applied before the Deductive Value automatically (Article 4) if the importer so requests the Customs in writing while lodging the Customs Declaration, in accordance to Article 1 Clause II point 4 of the Rules of Implementation of the Common Customs Law. If the value cannot be determined using the computed value method, the goods will be valued using the deductive value method.

3. How has Article 5.2 been implemented?

According to Rules of Implementation of the Common Customs Law, the Deductive Value provided for in Article 5.2 of the CVA is applied if neither the imported goods nor identical nor similar goods are sold in Bahrain in the condition as imported. If the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1(a) of the CVA.

4. How has Article 6.2 been implemented?

According to Rules of Implementation of the Common Customs Law, information supplied by the producer of the goods for purpose of determining the customs value, may be verified in another country, with the agreement of the producer and sufficient notice to the government of the country.

5. Questions concerning Article 7:

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

In order to achieve consistency in the Customs valuation procedures in Bahrain with Article 7 of the CVA, all provisions thereof are incorporated in the Rules of Implementation, Clause: Flexible Valuation Methods.

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

The importer is informed of the Customs value determined under Article 7 of the CVA according to the provisions of the Article 1 General Provision 2 of the Rules of Implementation of the Common Customs Law

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

The prohibitions in determination of the Customs value in accordance with Article 7.2 are duly delineated in the Clause on "Imported goods may not be valued on the basis of:" in the Rules of Implementation of the Common Customs Law.

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?

The Customs value of imported goods is determined on the basis of the CIF price wherein the adjustments mentioned in Article 1.1 and 1.2 are taken into account.

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

The foreign currency exchange rates are published in the bulletins issued regularly by the Central Bank of Bahrain, which is the competent authority of Kingdom of Bahrain.

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

In connection with confidentiality of information, the Article 51 of the Common Customs Law and Article 1.4 of Rules of Implementation of the Common Customs Law provide that the information furnished on a confidential basis for purposes of customs valuation, shall be treated as

strictly confidential, and may not be disclosed except to the extent required to be disclosed in the context of judicial proceedings.

9. Questions Concerning Article 11:

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

The rights of appeal open to the importer or whoever is liable for payment of the Customs duty are mentioned in the Article 1 General Provision 3, of Rules of Implementation of the Common Customs Law, which provides: "The importer or any person liable for payment of the customs duties can object and appeal against the assessment of customs value, without penalty, as following:

- (i) at the administrative level:
 - Head of Customs point
 - Customs Valuation Committee
- (ii) an independent judiciary body

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

The Article 61 of the Common Customs Law provides for this right, and President Order No. 10 of 2003, which has established the Customs Valuation Committee for this purpose.

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

- (a) Regarding publication of the laws, regulations and judicial decisions, the Common Customs Law is duly published to the concerned authorities. The Bahrain Customs website www.bahraincustoms.gov.bh, contains also the regulations and directives issued by the Customs.

So far as the judicial decisions are concerned, they are published in accordance with Article 10 of the CVA which provides that the information which is by nature confidential or which is provided on confidential basis shall not be disclosed except to the extent that it may be required to be disclosed in the context of judicial proceedings.

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

Any new regulations or rules of implementation shall be published in the Official Gazette, and shall come into effect on the date of publication unless otherwise provided for.

11. Questions concerning Article 13:

In connection with provision of Article 13 of the CVA which requires that the Customs legislation shall contain circumstances and conditions of right of the importer to clear his goods, if it becomes necessary to delay the final determination of such customs value, Article 1.1 of the Rules of Implementation of the Common Customs Law explains this aspect. The importer of the goods is able to withdraw them from customs, if so required, the importer provides sufficient guarantee in the form of a surety, a deposit or some other appropriate instrument, covering the ultimate payment of customs duties for which the goods may be liable.

12. Questions concerning Article 16:

Article 1.2 of the Rules of Implementation of the Common Customs Law duly provides for the right of importer to obtain a written clarification of the method used in determining the customs value of his goods.

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

The Interpretative Notes to the CVA are duly incorporated into the Rules of Implementation of the Common Customs Law.

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

In accordance with Article 1.5 of the Rules of Implementation of the Common Customs Law, General Provisions, interest charges are not included in 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?

In accordance with the Rules of Implementation of the Common Customs Law, General Provisions, provides that the customs value of the information carrier media such as magnetic tapes or the like containing data or computer software recorded thereon shall be assessed on the basis of value of such media only according to para. 2 the decision adopted by the WTO Committee on Customs Valuation.
