

# WORLD TRADE ORGANIZATION

G/VAL/N/2/BRN/1  
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Committee on Customs Valuation

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

### Checklist of Issues

#### BRUNEI DARUSSALAM

The following communication, dated 10 June 2002, has been received from the Permanent Mission of Brunei Darussalam.

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I have the pleasure in transmitting herewith the responses for the Checklist of Issues for G/VAL/5 that have been provided by my authorities.

Questions concerning Article 1:

(a) Sales between related persons:

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

In some respects, yes. The emphasis is on the definition of "related persons" and i.e. relationship involved.

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

No, Intercompany prices are not specifically referred in the Customs (Valuation of Imported Goods) Rules. The emphasis is on the relationship and whether this 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))?*

Rule 5(1) provides that in circumstances where the customs administration has grounds for believing or considering that the relationship influenced the price, such grounds shall be communicated to the importer, in writing or otherwise, and the importer shall be given reasonable opportunity to respond.

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

In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with the provisions of Rule 5(3), Customs (Valuation of Imported Goods) Rules whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time:

- a) The transaction value in sales to unrelated buyers of identical or similar goods for export to Brunei Darussalam.
- b) The deductive value of identical or similar goods as determined under provisions of Rule 9, Customs (Valuation of Imported Goods) Rules.
- c) The computed value of identical or similar goods as determined under and subject to the provisions of Rule 10 of Customs (Valuation of Imported Goods) Rules.

(b) Price of lost or damaged goods:

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

Under Customs Acts Section 16(1) Customs Act, "if any dutiable goods which have been imported are, by unavoidable accident, lost, damaged or destroyed at any time after their arrival within Brunei, and before removal from customs control, the Controller may remit the whole or any part of the customs duty payable thereon".

The price will be the price declared by the importer.

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

Rule 8, Customs (Valuation of Imported Goods) Rules, seeks to implement the provision of article 4 allowing the importer the said option subject to Rule 10 (4) Customs (Valuation of Imported Goods) Rules, which covers the aspect of "Computed Value". "Where the customs value of imported goods cannot be determined under provision Rules 4, 6 and 7 the customs value shall be determined under the provision of Rule 9 or when the customs value cannot be determined under that article, the provision of Rule 10 except that, on written request of the importer, the order of consideration of the valuation basis provided for Rule 9 and 10 shall be reversed.

**3. How has Article 5.2 been implemented?**

Rule 9 of Customs (Valuation of Imported Goods) Rules, provides for the implementation of Article 5.2 under the subheading of "deductive value" where the method of the computation is set out thereof. "If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the customs value shall, subject otherwise to the provision of paragraph 5(1)(a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in Brunei Darussalam in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of ninety days after such importation.

**4. How has Article 6.2 been implemented?**

Implementation of Article 6.2 is provided in Rule 10 Customs (Valuation of Imported Goods) Rules, under the "Computed Value" where Rule 10(2)(a) and (b), sets out the method of computing such value

**5. Questions concerning Article 7:**

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

Pursuant to Article 7, Rule 11(1) Customs (Valuation of Imported Goods) Rules, provides for a residual basis of valuation where information available in Brunei Darussalam based on the methods of valuation prescribed in the Rules is used flexibility and reasonable adjusted in order to derive a value acceptable to Customs. There is also a general provision of an application on the rules (Rule 2) which states that the provision of Article VII of GATT are adopted for the purpose of implementing procedures in respect Customs valuation and matters related thereof.

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

The importer, upon request, shall be informed in writing of the customs value determined under the provision of this rule and method used to determine such value as provided by Rule 11 (3) Customs (Valuation of Imported Goods) Rules.

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

Yes, under Rule 11(2) Customs (Valuation of Imported Goods) Rules.

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

For Brunei Darussalam, the cost of transportation including the loading, unloading and handling charges and other incidental charges and expenses associated with the transport of the imported goods to the port or place of importation, and the costs of insurance of the imported goods, shall be added to the price actually paid or payable for the imported goods.

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

The rate of exchange to be used shall be that which is published on a weekly basis and issued by the Brunei Association of Banks and shall reflect as effectively as possible, in respect of the period covered by each such document of publication, the current value of such currency in commercial transactions in terms of the currency of Brunei Darussalam, as in Rule 13 Customs (Valuation of Imported Goods) Rules.

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

All the information which is by nature confidential or which is provided on a confidential basis for the purposes of customs valuation shall be treated as strictly confidential by the authorities concerned and shall not be disclosed without the specific permission of the person or government providing such information, except insofar as that its disclosure is required in the context of judicial proceedings as provided by Rule 28 Customs (Valuation of Imported Goods) Rules.

**9. Questions concerning Article 11:**

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

Rights of appeals are provided under Rule 23 to Rule 27 where "any person wishing to exercise an initial right of appeal without penalty against the decision of the controller in relation to the provision of these rules may do so in writing to the Minister".

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

Under Rule 27(3) Customs (Valuation of Imported Goods) Rules, the person shall be able exercise a further right of appeal which shall be explain to him by the Controller of Customs.

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

- (a)

- (i) *the relevant national laws;*

Government Gazettes.

- (ii) *the regulations concerning the application of the Agreement;*

Government Gazettes.

- (iii) *the judicial decision and administrative rulings of general application relating to the Agreement;*

Brunei Laws Reports and Judgements of the Courts of Brunei Darussalam.

- (iv) *general or specific laws being referred to in the rules of implementation or application.*

Laws of Brunei.

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

Yes, it depends on further developments of the subject of the Customs Valuation and also on any further obligations that Brunei Darussalam may have in being a member state.

**11. Questioning concerning Article 13:**

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

Provided for under Rule 20 Customs (Valuation of Imported Goods) Rules.

- (b) Have additional explanations been laid down?

No.

**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?

Upon written request, the importer shall have the right to an explanation in writing from the customs administration of Brunei Darussalam as to how the customs value of the imported goods was determined as provided in Rule 29 Customs (Valuation of Imported Goods) Rules.

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

No, but in the event that further regulation are required, there are provisions to accommodate them within the country's legislation.

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

As a schedule in the Rules, annexed to the Agreement on the implementation of Article VII of GATT 1994 they are to be read together applied in the conjunction with the Rule.

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

Not addressed yet, but will soon be added to the Rules.

**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?**

Not addressed yet, but will soon be added to the Rules.

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