

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

Checklist of Issues

COSTA RICA

The following communication, dated 21 September 2001, has been received from the Permanent Mission of Costa Rica.

In compliance with the Decision adopted by the Committee on Customs Valuation (document G/VAL/5), I have the honour to transmit the replies by the Government of Costa Rica to the questions in the checklist of issues concerning the implementation and administration of the Agreement on Customs Valuation.

1. Questions concerning Article 1

(a) Sales between related persons:

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

Sales between related persons are not subject to special provisions, only to those set forth in the Agreement.

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

The fact that companies are related does not necessarily lead the Customs Administration to conclude that prices may be influenced. Nevertheless, such a relationship justifies the Customs Administration questioning the importer in order to ascertain whether or not it is indeed influencing 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))?

Article 194 of the General Customs Law establishes the following means for communicating in writing to the importer the Customs Administration's grounds for considering that the price was influenced by commercial relations: electronic transmission, customs agencies' compulsory pigeonholes, direct delivery to the importer or fax if so requested, registered letter or telegram or, if no such means prove feasible, publication of a once-only notice in the Official Journal.

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

Article 1.2(b) has been implemented as established in the Agreement.

- (b) Prices of lost or damaged goods:

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

There are no such special provisions or practical arrangements.

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 252 of Title XII of the General Customs Law provides that "reversal of the order of application of the valuation methods established in Articles 5 and 6 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, as provided for in Article 4, shall apply only when the customs authorities agree to the request of the importer to that effect".

3. How has Article 5.2 been implemented?

Article 253 of Title XII of the General Customs Law provides that Article 5.2 shall be implemented in accordance with the provisions of the relevant interpretative note thereto, whether or not the importer so requests.

4. How has Article 6.2 been implemented?

Costa Rica is not implementing Article 6 at present. Pursuant to Article 20.2 of the Agreement, Costa Rica is delaying its application for three years as from 1 January 2000. This provision was inserted in Article 259 of the General Customs Law.

5. Questions concerning Article 7

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

No special provisions have been made for making value determinations pursuant to Article 7.

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

The means of notification include the following: electronic transmission, customs agencies' compulsory pigeonholes, direct delivery to the importer or fax if so requested, registered letter or telegram or, if no such means prove feasible, publication of a once-only notice in the Official Journal.

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

The prohibitions in Article 7.2 of the Agreement are considered to be adequate to ensure the implementation of this provision.

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 254 of Title XII of the General Customs Law provides that "in addition to the elements referred to in Article 8.1 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, the following shall also form part of the customs value:

- (a) the cost of transport of the imported goods to the port or place of importation;
- (b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation;
- (c) the cost of insurance".

Port or place of importation shall be understood to mean "the first port or place of arrival of the goods in the national customs territory of the country of importation".

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

As required by Article 9.1, the rate of exchange is published by the Central Bank of Costa Rica both in its daily bulletin and on its Web site www.bccr.fi.cr.

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

The requirements for ensuring confidentiality, as required by Article 10 of the GATT Customs Valuation Agreement, are stipulated in Article 117 of the Code of Tax Standards and Procedures.

9. Questions concerning Article 11

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

Articles 196, 198, 200 and 203 of the General Customs Law establish the procedure to be followed, within three working days of the notice of determination of customs value, by an importer or customs broker acting as his representative wishing to file an application for reconsideration or for review by a superior body. If the Customs administration rejects all or part of the application for reconsideration and hierarchical review is then sought, it shall be submitted by the competent customs office to the Directorate-General of Customs. The ruling of the Directorate-General of Customs may be appealed to the National Customs Tribunal.

The above is related to Articles 261 of the General Customs Law and 541 of the Regulation to this Law.

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

An appeal may be lodged against any customs authority determination. Whenever the Customs Administration issues a determination modifying a declared customs value, the determination itself includes information on the appeal(s) which may be filed by interested parties.

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

(a) (i) The relevant national laws

The Law on Domestic Value pursuant to Article VII of the General Agreement was approved under Law 8,013 entitled "Insertion of a new Title XII, entitled Customs value of imported goods, in the General Customs Law No. 7,557 and amendments", as published in the Official Journal "La Gaceta" of 5 September 2000.

(ii) The regulations concerning the application of the Agreement

The Regulations to the Law on Domestic Value was published in the Official Journal "La Gaceta" on 27 September 2000, under Decree No. 28976-H in which a new Title IX, entitled Customs Value of Goods, was inserted in the Regulation to the General Customs Law No. 7557 and amendments.

(iii) The judicial decision and administrative rulings of general application relating to the Agreement.

The judicial decisions and administrative rulings of general application relating to the Agreement are published as resolutions and circulars signed by the Director-General of Customs.

(iv) General or specific laws being referred to in the rules of implementation or application

All general and specific laws referred to in the rules of implementation or application are published in the Official Journal "La Gaceta".

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

At the time of this notification, there are no plans to publish any subsequent regulations; the Guide to Monitoring Declared Customs Values and the procedures for customs value investigations will, however, be published in circulars.

11. Questions concerning Article 13

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

With regard to the withdrawal of goods under bond, Article 260 of the General Customs Law provides that, "If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of such customs value, the importer of the goods shall nevertheless be able to withdraw them from customs if, where so required, the importer provides sufficient guarantee covering the ultimate payment of customs duties for which the goods may be liable". Article 65 of the General Customs Law shall be respected when applying this rule.

(b) Have additional explanations been laid down?

Additional explanations are provided in Article 540 of the Regulations to the General Customs Law.

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 262 of Title XII of the General Customs Law states that, "For the purposes of Article 16 of the Agreement, the importer, within ten working days of the date on which the customs declaration was accepted, shall have the right to ask the customs authority for an explanation of the method used to determine the customs value of the goods. The customs authority is required to respond, in writing or by electronic means, within ten working days".

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

Articles 196, 198, 201, 203 and 261 of the General Customs Law and Article 541 of the Regulation to this Law.

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

The inclusion of the Interpretative Notes of the Agreement in national legislation is not explicitly stated. Article 251 does, however, provide that, "When determining the customs value of imported goods, whether or not they are exempt or free from customs duties and other import taxes, Costa Rica shall be governed by the provisions of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, as well as those of this Title and of applicable national and international regulations". The Interpretative Notes therefore need to be considered for a better interpretation of the GATT Customs Valuation Agreement.

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

Article 256 of Title XII of the General Customs Law establishes the following with regard to the treatment of interest charges in the customs value of imported goods: "Charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods shall not be regarded as part of the customs value provided that:

- (a) The charges are distinguished from the price actually paid or payable for the goods;
- (b) the financing arrangement was made in writing;
- (c) where required, the buyer can demonstrate that:
 - such goods are actually sold at the price declared as the price actually paid or payable;
 - the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided".

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?

Costa Rica is not applying this paragraph for the moment.
