

WORLD TRADE ORGANIZATION

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Committee on Customs Valuation

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT ON CUSTOMS VALUATION

Check-list of Issues

CUBA

The following communication, dated 10 July 2002, has been received from the Permanent Mission of Cuba.

The Permanent Mission of the Republic of Cuba has the honour to transmit herewith its responses to the questionnaire on the Agreement on Customs Valuation which appears in document G/VAL/5 of 1995.

Check-list of Issues

1. Questions concerning Article 1:

(a) Sales between related persons:

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

No.

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

No.

(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))*

General Rules for Customs Valuation.

(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 Article 1.1 whenever the importer demonstrates that such value closely approximates to the transaction value in sales to unrelated persons of identical or similar goods or to the customs value of these goods as determined under the provisions of Articles 5 or 6.

(b) Price of lost or damaged goods:

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

No.

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?

It has been implemented as provided for in the Agreement. Importers shall make such requests in writing, stating the reasons therefor, no less than two days prior to lodging the goods declaration.

3. How has Article 5.2 been implemented?

If neither the imported goods nor identical nor similar imported goods are sold in Cuban territory in the condition as imported, then, 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 in Cuban territory who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1(a).

4. How has Article 6.2 been implemented?

Customs may not require or compel any person not resident in its own territory to produce for examination, or to allow access to, any account or other record for the purposes of determining the customs value. However, information supplied by the producer, under the provisions of this Article, may be verified in another country by the Cuban authorities with the agreement of the producer and provided they give sufficient advance notice to the government of the country in question and the latter does not object to the investigation.

5. Questions concerning Article 7:

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

General Rules for Customs Valuation.

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

General Rules for Customs Valuation.

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

Yes.

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?

All agreed terms of delivery which are established in INCOTERMS (International Commercial Terms) are accepted in commercial transaction contracts.

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

The rate of exchange is published in the press by the Central Bank of Cuba (BCC).

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

The premises housing the statistics division has its own security measures.

- The server storing all of the data is isolated and has not been networked.
- Passwords are used to prevent data access.

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 an importer are complaint, protest and appeal through administrative channels.

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

All the rights of interested parties are set forth in the General Rules.

Once all administrative avenues have been exhausted, an importer may appeal the decision before the Civil and Administrative Chamber of the corresponding Provincial Court and, when applicable, before the Civil and Administrative Chamber of the People's Supreme Court.

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 decisions and administrative rulings of general application relating to the Agreement;*
- (iv) *general or specific laws referred to in the rules of implementation or application.*

Such information is published in the Official Gazette of the Republic of Cuba.

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

No.

11. Questions concerning Article 13:

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

If it becomes necessary to delay the determination of the customs value of imported goods, the importer shall be able to withdraw them under guarantee, in the form and with the sureties required by Cuban customs laws.

- (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?

Yes.

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

No.

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

The Interpretative Notes have been included in the General Rules for 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?

Charges for interest under a financing arrangement shall not be regarded as part of the customs value provided that:

- the financing arrangement was made in writing.
- where required, the buyer can demonstrate that:
 - such goods are actually sold at the price declared as the price actually paid or payable, and
 - 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?

In determining the customs value of imported carrier media bearing data or instructions, only the cost or value of the carrier medium itself shall be taken into account. The customs value shall not, therefore, include the cost or value of the data or instructions, provided that this is distinguished from the cost or the value of the carrier medium.
