

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

Checklist of issues

CAMBODIA

The following communication, dated 19 October 2011, has been received from the Permanent Mission of Cambodia.

1. Question concerning Article 1:

- (a) Sale between related persons:
 - (i) Are sale between related persons subject to special provisions?
 - No, there is no special provision for sale between related persons other than Praka 4 to Praka 7, Chapter 2, and Article 15.4 and 15.5 of the Annex of the Prakas No. 387 on Customs Valuation of Imported Goods.
 - (ii) Is the fact of intercompany prices prima faces considered as ground for regarding the respective price as being influenced?
 - No, according to Praka 2 of the Prakas No. 387 on Customs Valuation of Imported Goods, and Article 15.4 and 15.5 of its annex.
 - (iii) What is the provision for giving the communication of the afore-mentioned grounds in writing if the importer so requests?
 - Praka 6 of the Prakas No. 387 on Customs Valuation of Imported Goods.
 - (iv) How has Article 1.2 (b) been implemented?

Transaction Value is still applied if the importer can demonstrate that the relationship doesn't influence the price, and that such value closely approximates to one of the following occurring at or about the same time, with respect to Praka 7 of the Prakas No. 387 on Customs Valuation of Imported Goods.

(b) Price of lost or damaged goods:

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

There is no special provision concerning the valuation of lost or damaged goods. However, Article 28 of the Law on Customs provides that the Customs Administration may provide a refund in whole or in part for import and export duties and taxes paid for imported goods that, before release from customs, have been found short, defective, of inferior quality, and goods that are re-exported or destroyed under Customs' supervision even if already released from customs; It should be noted that the valuation of lost and damaged goods are stated in Explanatory Note 3.1 of the WCO Valuation Compendium.

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

Praka 9 of the Prakas No. 387 on Customs Valuation of Imported Goods is fully complied with Article 4 of the agreement.

3. How has Article 5.2 been implemented?

Such implementation is according to Praka 22, 23, and 24 of the Prakas No. 387 on Customs Valuation of Imported Goods.

4. How has Article 6.2 been implemented?

There is no provision providing for this issue, so such implementation would totally rest on the Article 6.2 of the agreement, which is the annex to the Prakas No. 387 on Customs Valuation of Import Goods.

5. Questions concerning Article 7:

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

Provision of the Praka 30, and 31, Chapter 8 of the Prakas No. 387 on Customs Valuation of Imported Goods are complied with the article 7 of the agreement.

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

Such implementation totally rests on the Article 7.3 of the agreement, which is the annex to the Prakas No. 387 on Customs Valuation of Imported Goods.

c) Are the prohibition found in Article 7.2 delineated?

Provision of the Praka 31 of the Prakas 387 on Customs Valuation of Imported Goods is fully complied with the Article 7.2 of the agreement.

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

Provision of Praka 10-a-(vi) of the Prakas No. 387 on Customs Valuation of Imported Goods provides for the application of option found in Article 8.2 of the agreement. In the case of FOB

application, ex-factory price would be adjusted by adding transportation cost to the port of loading for export in exporting country to reach the FOB value.

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

The GDCE publishes exchange rates of foreign currencies, while the National Bank of Cambodia (NBC) issues the exchange rate of Cambodian currency (Riels) to the US Dollars.

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

There are certain regulations and guidelines concerning confidentiality as follows:

- Part IV of the Code of Ethics and Conducts of Cambodia Customs Officers provides articles on confidentiality and the use of official information. The provision states that the disclosure of information regarding customs declarations and supporting documents, invoices, accounting records, corresponding letters, as well as other commercial and internal affairs information cannot be done without permission.
- The GDCE's Instruction No. 583 dated 16th December 2010 on Initial Post Clearance Audit (PCA) Manual at the Customs and Excise Department also has provision on this issue. Article 4.2 h of the instruction states that Customs PCA officers are obliged to comply with the regulations on confidentiality, to manage vouchers and documents as provided for proper purpose.

9. Question concerning Article 11:

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

- Article 24 of the Law on Customs provides the rights of appeal to importer and other concerned person who dissatisfied with the reasons for or the correctness of the re-determination of customs value may object to the decision by writing to the Director of Customs within 30 days of the date the importer or his agent receives the Notices of the re-determination of the tariff classification, origin or the customs value.
- In circumstances where the customs value is subject to appeal, the goods shall be released without the payment of duties and taxes when the importer provides sufficient security to cover the duties and taxes.
- The Director of Customs shall make the decision on the objection referred to in the first paragraph of this Article within sixty (60) days after the objection is received; otherwise, the objection shall be deemed as accepted and the security returned as appropriate.
- Any person who objects to any decisions made by the Director of Customs under the first paragraph of this Article may file a written appeal to the Customs Tariff Committee.
- The organization and functioning of the Customs Tariff Committee shall be determined by Anukret.
- Article 71 of the Law on Customs: A person subject to a penalty or seizure of goods, conveyance, or other things may appeal in writing to the Director of Customs within

(30) days of receiving notification of the penalty or seizure, stating the reasons for the appeal, and depositing security in accordance with Article 41 of this Law.

- The Director of Customs shall make a decision on the appeal within sixty (60) days after receipt of the appeal; otherwise the appeal is granted.

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

- Article 24 of the Law on Customs: An importer or exporter has the right to appeal to the competent court against any decision of the customs Tariff Committee within a period of thirty (30) days from the date of receiving notification of that decision.

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

(a)(i)(ii) Relevant national laws, and regulations concerning the application of the agreement.

Law and regulations concerning customs valuation have been disseminated to the public through book publication, brochures, and websites etc.

(iii)(iv) Provide information on publication, as required by Article 12 of the judicial decision and administrative rulings of general application relating to the agreement, and general or specific laws being referred to in the rules of implementation or application.

The Publication or dissemination of such information (judicial decision) is under the management of the Ministry of Justice. Administrative Rulings, if any, will be disseminated through Websites.

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

- There has been no further rule anticipated yet.

11. Questions concerning Article 13:

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

- Article 24 of the Law on Customs: provides that: In circumstances where the customs value is subject to appeal, the goods shall be released without the payment of duties and taxes when the importer provides sufficient security to cover the duties and taxes.

(b) Have additional explanations been laid down?

- Detailed application and explanation are described in the provisions of the Prakas No. 112 on Provision of Security.

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 16 of the agreement is the annex of the Prakas No. 387 on Customs Valuation of Imported Goods.

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

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

The agreement and its interpretative Notes is annex to the Prakas No. 387 on Custom Valuation of Imported Goods.

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

Praka 3 of the Prakas No. 387 on Customs Valuation of Imported Goods is complied with the decision on Treatment of Interest Charges in the Customs Valuation of Imported Goods.

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?

Cambodia will follow the International Best Practice, such as the Decision 4.1 of the WCO Valuation Compendium on the valuation of Carrier Media Bearing Software for Data Processing Equipment, although there is no specific provision in the law and regulations providing for such case.
