

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

Check-List of Issues

PANAMA

The following communication, dated 1 September 1998, has been received from the Permanent Mission of Panama.

1. Questions concerning Article 1:

(a) Sales between related persons:

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

They are not subject to special provisions. The provisions of the Agreement apply.

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

No. We accept the transaction value.

(iii) What is the provision for giving the communication of the above-mentioned grounds in writing if the importer so requests (Article 1.2(a))?

The regional customs administration in question communicates in writing the grounds for rejecting the price paid or to be paid, giving the importer a reasonable period of time to submit further evidence.

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

Using a comparison criterion only, not for the determination of value; and that criterion is also applied for establishing risk criteria in the development of programmes for the a posteriori investigation of value.

(b) Price of lost or damaged goods:

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

The second paragraph of Article 21 of Decree No. 26 stipulates that the value of goods shall be determined in accordance with the state in which the goods are presented, on the basis of the accompanying records and documents, and that where necessary a physical examination of the goods shall be conducted and the importer shall supply such additional explanations or background documentation as is needed.

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?

Alternation of the methods in Articles 5 and 6 is permitted subject to acceptance by the Customs Administration of the request by the importer to reverse the order.

3. How has Article 5.2 been implemented?

Panama implements the provisions of Article 5.2 of the Agreement in full.

4. How has Article 6.2 been implemented?

Panama implements the provisions of Article 6.2 of the Agreement in full.

5. Questions concerning Article 7:

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

Panama applies the provisions of Article 7 of the Agreement in full. However, the Customs Administration of Panama has developed procedures for the application of Article VII in special cases of valuation, such as used goods in general (machinery and equipment in general, electronics, clothing, vehicles, samples without commercial value and personal belongings of travellers).

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

Written communication to the importer explaining the method used to determine the value with the factual elements presented.

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

Panama applies Article 7.2 in full.

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

As stipulated in Article 9 of the Customs Value Regulations, Panama requires the inclusion of Article 8.2(a), (b) and (c) of the Agreement for the determination of the customs value, with the result that in addition to (a), (b) and (c), all expenditures incurred in the export country up to the first port of exit must be added to the ex-factory price.

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

The rate of exchange applied is the rate that is valid at the time of the declaration of import for consumption or any other regime applying to goods in Panama.

On the last working day of each week, the Directorate-General of Customs communicates to each regional customs administration the average rate of exchange applicable to each currency

throughout the following week. The National Bank of Panama is the body which officially certifies the average rate of exchange.

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

Panama applies the provisions of Article 10 of the Agreement in full.

9. Questions concerning Article 11:

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

The importer and any other person liable for payment of the customs duty has the right to appeal without penalty within three working days following the calculation of the customs duty.

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

He is also given the right to appeal to the Directorate-General of Customs within five working days following notification of the first instance decision or of the appeal before the judicial authority, without penalty. The appellant is notified of the decision on appeal and the reasons on which it was based are communicated to him in writing. He is also informed of his rights of further appeal.

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

(a) (i) The relevant national laws:

Publication in the Official Gazette.

(ii) the regulations concerning the application of the Agreement:

Publication in the Official Gazette.

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

Resolutions published in the Official Gazette.

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

General laws are communicated through resolutions published in the Official Gazette.

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

Yes. The Value Declaration Form (DV1) is to be published by means of a resolution in the Official Gazette.

11. Questions concerning Article 13:

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

Through the procedure set forth in Decree No. 30 of 22 October 1994 concerning Clearance Against Guarantee of Payment, published in Official Gazette No. 22,655 of Monday, October 1994.

(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: Article 16 of Cabinet Decree No. 26 of 1 August 1996.

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

No.

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

Article 1, paragraph 1 of Cabinet Decree No. 26 of 1 August 1996 stipulates that the customs value shall be determined according to the rules set forth in the Decree, and in cases not covered by the Decree, in accordance with the text and the Interpretative Notes and Annexes forming an integral part of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

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

On the basis of Article 1 of Cabinet Decree No. 26 of 1 August 1996 and the Decision of the WTO Committee of 12 May 1995, incorporated in domestic law in Article 18 of Resolution No. 704-04-532 of 17 September 1997 published in Official Gazette No. 23,402 of 20 October 1997.

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?

On the basis of Article 1 of Cabinet Decree No. 26 of 1 August 1996 and Decision of the WTO Committee of 12 May 1995, incorporated in domestic legislation in Article 18 of Resolution No. 704-04-532 of 17 September 1997 published in Official Gazette No. 23,402 of 20 October 1997.
