

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

Checklist of issues

**SAUDI ARABIA**

The following communication, dated 3 October 2006, is being circulated at the request of the delegation of Saudi Arabia.

---

In accordance with the paragraph 164 of the WP Report on Saudi Arabia's Accession to the WTO, a Ministerial Decree No. 1207 dated 09/05/1425 AH corresponding to 26/06/2004 AG was issued on the Principles of Value Determination for Customs Purposes based on the WTO Customs Valuation Agreement (CVA). The Decree was published on the Official Gazette, and all Customs ports were duly authorized to apply it in determination of the Customs value of imports effective the date of Saudi Arabia's accession to the WTO.

**1. Questions concerning Article 1:**

(a) Sales between related persons:

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

In case doubts exist that price of the imported goods has been influenced by relationship between the importer and seller, then such case is dealt according to the Clauses II.5 and IV.A.4 of the Ministerial Decree No. 1207 dated 09/05/1425 AH corresponding to 26/06/2004 AG.

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

"Prices of the goods of the international firms" are not considered influenced by relationship except in case of application of Article 1.2 to them, and that the price is duly found to be influenced by relationship.

(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))

In case an importer requests the Customs in writing to be advised of the grounds for regarding the respective prices as being influenced by relationship, then he is notified in writing of the grounds reached during scrutiny of the information furnished by him in connection with the circumstances surrounding the sale.

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

The transaction value in a sale between related persons is accepted and the value is determined according to the Clause II.A.4 of the Ministerial Decree No. 1207 dated 09/05/1425 AH corresponding to 26/06/2004 AG which is based on Customs Valuation Agreement (CVA) if the importer demonstrates that such value of the imported goods closely approximates, at or about the same time, to one of the values noted below:

1. the transaction value of identical or similar goods in sales to unrelated buyers for export to the same country of importation;
2. the customs value of identical or similar goods as determined under the Clause IV: Deductive Value;
3. a customs value of identical or similar goods as determined under the Clause VII of the Ministerial Decree, based on Article 6 of the CVA (Computed Value).

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, and elements enumerated in the Clause IV.B of the same Article and costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.

Article 1.2(b) is implemented upon request by the importer and for comparison purposes only. It may not be adopted as alternative values in accordance with that Article.

*(b) If the importer accepts the damaged goods, the value is determined as following:*

1. If all goods in the shipment are damaged, the transaction value is not applicable because the price actually paid or payable do not cover the goods in damaged state.
2. If the shipment is exposed to partial damage, then the transaction value can be used for the part not damaged. As far as the damaged part is concerned, its value is assessed according to its condition at the date of registering the Customs Declaration in accordance with the GCC Common Customs Law Article 18.

Regarding the lost goods, the transaction value is not applied because such goods basically did not arrive.

Provisions concerning the valuation of damaged goods: their value is determined according to their condition at the time of registering the Customs Declaration.

**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?**

The Computed Value (Article 5) is applied before the Deductive Value automatically (Article 4) if the importer so requests the Customs in writing while lodging the Customs Declaration, in accordance to Clause III.B of the Ministerial Decree. If the value cannot be determined using the computed value method, the goods will be valued using the deductive value method. If it is found impossible, the value will be determined according to Clause VIII of the Ministerial Decree.

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

According to Clause VI.3 of the Ministerial Decree mentioned above, and the notes in the Interpretative Annex (VI.3.1 and 2), the Super Deductive Value provided for in Article 5.2 of

the CVA is applied if neither the imported goods nor identical nor similar goods are sold in Saudi Arabia in the condition as imported. 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 who are not related, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1(a) of the CVA.

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

According to the Clause VII.2 of the Ministerial Decree mentioned above, Article 6.2 of the CVA is implemented in accordance to the following text:

Any person resident outside the GCC States shall not be required to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, the customs administration may verify the information supplied by the producer of imported goods for the purposes of determining the customs value under the provisions of this Article in another country, with agreement of the producer, provided a sufficient advance notice is given to the government of the country where the investigation is to take place, and the government does not object to it.

**5. Questions concerning Article 7:**

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

In order to achieve consistency in the Customs valuation procedures in Saudi Arabia with Article 7 of the CVA, all provisions thereof are incorporated in the Clause VIII and relevant notes in the Interpretative Annex (VIII.A) of the Ministerial Decree.

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

The importer is informed of the Customs value determined under Article 7 of the CVA according to the provisions of the Clause VIII.C of the Ministerial Decree.

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

The prohibitions in determination of the Customs value in accordance with Article 7.2 are duly delineated in the Clause VIII.B of the Ministerial Decree.

**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?**

The Customs value of imported goods is determined on the basis of the CIF price wherein the adjustments mentioned in Article 1.1 and 1.2 are taken into account.

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

The foreign currency exchange rates are published in the bulletins issued regularly by the competent authorities in Saudi Arabia (i.e., Saudi Arabian Monetary Agency (SAMA)).

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

In connection with confidentiality of information, the Clause I.3 of the Ministerial Decree as well as Article 51 of the GCC Common Customs Law provide that the information, confidential or furnished on a confidential basis for purposes of customs valuation, shall be treated as strictly confidential, and may not be disclosed except to the extent required to be disclosed in the context of judicial proceedings.

**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 the importer or whoever is liable for payment of the Customs duty are mentioned in the Clause 1.2 which thus provides: "The importer or any person liable for payment of the customs duties can object and appeal against the assessment of customs value, without penalty, as following:

- a. at the administration level:
  - i. Director, customs port,
  - ii. Valuation adjudication committee
- b. an independent judiciary body (Board of Grievances)."

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

The importer can be aware of his right to further appeal through referring to Article I.2 of the Ministerial Decree already published in the Official Gazette Umm al-Qura issue 4072 dated 23.10.1426 AH corresponding to 25.11.2005 AG, as well as by accessing the Saudi Customs website [www.customs.gov.sa](http://www.customs.gov.sa). The Article 51 of the GCC Common Customs Law provides for this right.

**10. Provide information on the publication, as required by Article 12, of:****(a) Regarding publication of the laws, regulations and judicial decisions, the GCC Common Customs Law is duly published in the Official Gazette Umm al-Qura issue 3930 dated 27.12.1423 AH corresponding to 28.02.2003 AG. The Saudi Customs website mentioned above contains also the regulations and directives issued by the Customs.**

So far as the judicial decisions are concerned, they are published in accordance with Article 47 of the Board of Grievances Law taking into due account not to breach Article 10 of the CVA which provides that the information which is by nature confidential or which is provided on confidential basis shall not be disclosed except to the extent that it may be required to be disclosed in the context of judicial proceedings.

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

In accordance with the provisions of Article 71 of the Basic Rule of Governance, any new regulations or rules of implementation shall be published in the Official Gazette, and shall come into effect on the date of publication unless otherwise provided for. In addition, publication of any new rules is not currently anticipated.

**11. Questions concerning Article 13:**

In connection with provision of Article 13 of the CVA which requires that the Customs legislation shall contain circumstances and conditions of right of the importer to clear his goods, if it becomes necessary to delay the final determination of such customs value, please note that the Clause I.A properly explains this aspect.

**12. Questions concerning Article 16:**

Article 1.I.2 of the GCC Common Customs Law Rules of Implementation duly provides for the right of importer to obtain a written clarification of the method used in determining the customs value of his goods. The Clause VIII.C of the Ministerial Decree also provides for such right.

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

The Interpretative Notes to the CVA are duly incorporated into the Interpretative Annex to the Ministerial Decree

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

According to Clause IV.C.1.e of the Ministerial Decree and Interpretative Annex thereof, the Decision 3.1 of the Committee on Customs Valuation on Treatment of Interest Charges is duly implemented, and the interest charges are not included in the customs value.

**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?**

Regarding determination of the customs value of information carrier media, the Clause I.8 of the Ministerial Decree provides that the customs value of the information carrier media such as the magnetic tapes or the like, containing data or computer software recorded thereon, shall be assessed on the basis of value of such media only according to the paragraph 2 of the Decision No. 4.1 adopted by the WTO Committee on Customs Valuation.

---