

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

Checklist of issues

TANZANIA

The following communication, dated 1 March 2004, has been received from the Permanent Mission of Tanzania.

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 above-mentioned grounds in writing if the importer so requests (Article 1.2(a))?*

Communication is given to the importer in writing. Fourth schedule paragraph 2 (2)(a).

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

Provisions of Article 1.2(b) have been included in the national legislation (paragraph 2(2)(b) of the Fourth schedule).

(b) Price of lost or damaged goods:

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

Valuation of lost or damaged goods is in accordance with the provisions of explanatory note 3.1, which has been adopted, in the national legislation (Section 108(3) of the East African Customs and Transfer Tax Management Act).

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 provision has been included in the national legislation (paragraph 5 of the Fourth schedule).

3. How has Article 5.2 been implemented?

This has been implemented in the national legislation (paragraph 6 of the Fourth Schedule).

4. How has Article 6.2 been implemented?

This has been included in the national legislation (paragraph 7 of the Fourth Schedule), as follows:

"No person not resident in Tanzania may be required or compelled to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value under the provision of this Paragraph may be verified in another country by a proper officer with the Schedule of the producer and provided sufficient advance notice is given 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 to Article 7?

Under paragraph 8 of the Fourth schedule, value is to be determined using reasonable means consistent with the Fourth schedule (WTO Agreement on Customs valuation and Article VII of the GATT 1994) and on the basis of data available in Tanzania.

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

Paragraph 8(3) of the Fourth schedule provides that "If the importer so requests, he shall be informed in writing of the customs value determined under this paragraph and the method used to determine such value".

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

Methods of valuation prohibited by Article 7.2 are also prohibited under paragraph 8(2) of the Fourth schedule t the East African Customs and Transfer Tax Management Act.

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?

Tanzania is a c.i.f. country and so the adjustments under Article 8.2 are included in the customs value with the exception of airfreight whereby only 25% of the freight actually paid or payable are added as a value for customs purposes.

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

Customs and Excise department source on weekly basis from Central bank of Tanzania.

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

Section 7(c) of the East African Customs and Transfer Tax Management Act provides for protection of confidential information except if required to do so as a witness in a court of law, or with approval of the Authority.

9. Questions concerning Article 11:

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

Four levels of appeal are provided for – within the customs department – up to the level of the Commissioner, an independent Tax Appeal Board and Tribunal.

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

Levels of appeal are published in the legislation. (Section 124 of the East African Customs and Transfer Tax Management Act).

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

- (a) (i) *The relevant national laws:*

Published in the East African Customs and Transfer Tax Management Act (repealed and replaced Section 108 and the Fourth schedule).

- (ii) *The regulations concerning the application of the Agreement:*

Published together with the East African Customs and Transfer Tax Management Act.

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

Available within the East African Customs and Transfer Tax Management Act.

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

Available within the Customs and Excise Department.

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

Yes. It will cover Post clearance audit, risk management and information technology.

11. Questions concerning Article 13:

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

This has been covered under section 108.(6). Release may be granted at the request of the importer after the importer provides sufficient guarantee in the form of surety, a deposit or some other appropriate security as the proper officer may be determined to secure the ultimate payment of customs duties for which the goods may be liable.

- (b) Have additional explanations been laid down?

Yes.

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, Section 108(4) of the East African Customs and Transfer Tax Management Act.

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

No.

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

The interpretative Notes of the Agreement have been included and form an integral part of the Fourth schedule and Paragraphs (Part I) of the Fourth schedule are read and applied in conjunction with their respective notes (Part II) of the Fourth schedule.

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

Interest charges do not form part of the value for customs. This has been adopted in our national legislation as per section 108(3) East African Customs and Transfer Tax Management Act.

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?

Valuation of Carrier Media Bearing Software, the transaction value is the basis of valuation.
