

WORLD TRADE ORGANIZATION

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(12-6052)

Committee on Customs Valuation

Original: Spanish

NOTIFICATION UNDER ARTICLE 22 OF THE AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

URUGUAY

The following communication, dated 29 October 2012, is being circulated at the request of the delegation of Uruguay.

The Permanent Mission of Uruguay to the World Trade Organization and other International Economic Organizations with headquarters in Geneva presents its compliments to the Central Registry of Notifications of the WTO Secretariat and has the honour to submit the following notification under Article 22.2 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

DECREE No. 538/008

Montevideo, 10 November 2008.

HAVING REGARD TO: Decision No. 13/07 of the Common Market Council adopting the "Implementing Regulation for the Customs Valuation of Goods";

CONSIDERING: That pursuant to Article 40 of the Protocol of Ouro Preto on the Institutional Structure of MERCOSUR, enacted by Law No. 16.712 of 1° September 1995, the States Parties undertake to adopt all measures necessary to ensure, in their respective territories, compliance with the rules adopted by the MERCOSUR organs and inform the Administrative Secretariat thereof in accordance with the procedure of simultaneous entry into force of the rules;

WHEREAS: It is necessary for the aforementioned Decision of the Common Market Council to be incorporated in the domestic legal system, in accordance with the provisions in Article 42 of the Protocol of Ouro Preto;

ACCORDINGLY:

**THE PRESIDENT OF THE REPUBLIC
HEREBY DECREES:**

Article 1

It is hereby provided that Decision No. 13/07 of the Common Market Council adopting the "Implementing Regulation for the Customs Valuation of Goods", as set out in the Annex hereto, which is part of the present Decree, shall be incorporated in the domestic legal system.

Article 2

Decree 574/94 of 29 December 1994 and all rules inconsistent with this Decree shall be rescinded as of the date of simultaneous entry into force of Decision No. 13/07 of the Common Market Council, pursuant to Article 40 of the Ouro Preto Protocol.

Article 3

This Decision shall be communicated to the MERCOSUR Secretariat.

Article 4

For communication, publication and filing.

TABARE VAZQUEZ - ALVARO GARCIA - PEDRO VAZ

Publication: 19 November 2008

Decision No. 13/07 of the Common Market Council

**IMPLEMENTING REGULATION FOR THE CUSTOMS
VALUATION OF GOODS**

HAVING REGARD TO: The Treaty of Asunción, the Protocol of Ouro Preto and Decision No. 17/94 of the Common Market Council;

WHEREAS: On 15 April 1994, the States Parties to MERCOSUR signed the Final Act of the Uruguay Round of Multilateral Trade Negotiations, adopting the Agreements for the establishment of the World Trade Organization (WTO), which were subsequently ratified and incorporated in the domestic legal systems of the four States Parties;

One of these instruments is the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (GATT), which is applied by the States party to MERCOSUR;

Since the entry into force of Decision CMC No. 17/94, the States party to MERCOSUR have applied the customs value of imported goods, determined in accordance with the provisions of the above Agreement, as well as other harmonized procedures, as the tax base for the determination of import duties;

Valuable practical experience has been gained thanks to harmonized application, and it is therefore necessary to develop a MERCOSUR legal instrument concerning this matter.

**THE COMMON MARKET COUNCIL
HEREBY DECIDES:**

Article 1

To adopt the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (GATT), within the MERCOSUR framework.

Article 2

To adopt the Implementing Regulation for the Customs Valuation of Goods, as set out in the Annex hereto, which is part of the present Decision.

Article 3

Decision CMC No. 17/94 shall be rescinded as of the entry into force of the present Decision.

Article 4

The States Parties shall incorporate this Decision in their respective domestic legal systems by July 2008.

XXXIII CMC - Asunción, 28/VI/07

ANNEX

IMPLEMENTING REGULATION FOR THE CUSTOMS VALUATION OF GOODS

CHAPTER 1 GENERAL PROVISIONS

Article 1

The tax base for determining *ad valorem* import duties shall be the customs value of imported goods, determined in accordance with the provisions of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (GATT) and the other related provisions deriving from the MERCOSUR legal framework.

Article 2

The customs value of imported goods shall constitute the basis for application of the Common External Tariff.

Article 3

This Decision applies to all goods that are imported into the States party to MERCOSUR and enter, for whatever reason, the MERCOSUR customs territory.

Article 4

The Declaration of Customs Value attached to this Implementing Regulation shall include the customs clearance declaration, where appropriate.

CHAPTER 2 DETERMINATION OF THE CUSTOMS VALUE

Article 5

The following elements shall be included in the customs value:

- (a) the cost of transport of the imported goods to the port or place of importation;
- (b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and
- (c) the cost of insuring the goods.

Article 6

The port or place of importation referred to in Article 5 is the point of entry of the goods into the MERCOSUR customs territory.

Article 7

The customs value of the imported goods shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable:

- (a) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;
- (b) the cost of transport after importation;

- (c) duties and taxes in the country of importation.

Article 8

1. Charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods shall not be regarded as part of the customs value, provided that:

- (a) the charges are distinguished from the price actually paid or payable for the goods;
- (b) the financing arrangement was made in writing;
- (c) where required, the buyer can demonstrate that:
 - (1) such goods are actually sold at the price declared as the price actually paid or payable; and
 - (2) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the financing was provided.

2. The provisions of paragraph 1 above shall apply irrespective of whether the financing is provided by the seller, a bank or another natural or legal person. It shall also apply, if appropriate, where goods are valued using a method other than the transaction value method.

Article 9

Pursuant to Article 9 of the GATT 1994 Valuation Agreement, where it is necessary to convert values expressed in foreign currency, the applicable rate of exchange shall be that provided daily by the central bank or central monetary authority of each State Party, the rate to be used being that prevailing at the close of the day preceding the date of registration or approval of import clearance.

CHAPTER 3 ADMINISTRATION OF VALUATION

Article 10

Until the States Parties agree otherwise, controls and decisions regarding customs value shall be implemented by the competent authorities established in accordance with the relevant administrative arrangements of each State Party.

Article 11

1. The controls and decisions referred to in Article 10 cover:
- (a) the general coordination of customs valuation, including the drafting and implementation of the rules and regulations relating thereto;
 - (b) the authority to require the presentation of documentary evidence and additional explanations for the determination of customs value;
 - (c) the analysis of specific customs valuation issues raised by natural or legal persons and national public administration bodies, government bodies, and central bodies of other States Parties;
 - (d) the maintenance and updating of databanks in support of customs value control activities;
 - (e) the authority to request a copy of the document by which the export was effected and/or general information or information relating to current export prices in the country of origin, directly from the Customs Administration of that country or through other appropriate mechanisms;
 - (f) the conduct of audits and investigations;
 - (g) the conduct of international market studies and analyses;

- (h) the adoption of any other measure required for compliance with these regulations.

CHAPTER 4

CONTROL OF DECLARED VALUE

Article 12

The control of the declared value of imported goods may be selective and/or random.

Article 13

Selection for the control of the declared value may take place during import clearance, in accordance with criteria established by the competent authorities of the States Parties.

Article 14

States Parties controlling the declared value of goods at the time of clearance may conduct a preliminary examination or a summary analysis thereof. During the preliminary examination, measures may be adopted to verify the evidence required for an accurate "ex-post" determination of the customs value, such as sample-taking or consultation of experts.

Article 15

Where the declared value is controlled during import clearance, each State Party shall allow a period of 60 days for this process, beginning on the date when the importer presents documentary evidence of the value. This period may be extended, for the same amount of time, where an audit or investigation is necessary. It may be suspended where the importer does not respond to the request made by the Customs Administration during the valuation process.

Article 16

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of this value, the importer shall nevertheless be able to withdraw his goods from customs if, where so required, he provides sufficient guarantee in the form of a surety, a deposit or some other appropriate instrument covering the payment of customs taxes and/or duties on importation for home use. Should this guarantee be enforced to collect the duties and taxes payable as a result of the subsequent customs value determination, any surplus amount shall be released. In any case, the guarantee shall be released automatically if the customs authority has taken no action within 150 days of when it was posted.

Article 17

Customs administrations shall be entitled to require the tax credits resulting from customs value control, within the time-frames prescribed in the legislation of each State Party.

Article 18

When a declaration has been presented and where the customs administration has reason to doubt the truth or accuracy of the particulars or of documents produced in support of this declaration, the Customs Administration may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of Article 8 of the Valuation Agreement of the GATT 1994. If, after receiving further information, or in the absence of a response, the Customs Administration still has reasonable doubts about the truth or accuracy

of the declared value, it may, bearing in mind the provisions of Article 11 of the Valuation Agreement of the GATT, decide that the customs value of the imported goods cannot be determined under the provisions of Article 1 of that Agreement.

Before taking a final decision, the Customs Administration shall communicate to the importer, in writing if requested, its grounds for doubting the truth or accuracy of the particulars or documents produced and the importer shall be given a reasonable opportunity to respond. When a final decision is made, the Customs Administration shall communicate to the importer in writing its decision and the grounds therefor.

Article 19

Every importer shall be entitled to appeal, without penalty, the customs decisions issued by customs administrations as a result of the value control process.

Article 20

Imported goods not selected for control of the declared value during customs clearance may undergo value control in such form and within such time as are provided for in the domestic legislation of each State Party.

Article 21

Any decision on the customs value of the imported goods may be reviewed by the Customs Administration, in accordance with the domestic legislation of each State Party.

Article 22

The documentary evidence and information certifying the customs value declared by the importer, including commercial correspondence relating to the operation, must be left at the disposal of the customs authority for the period prescribed in the domestic legislation of each State Party.

CHAPTER 5 DECLARATION OF CUSTOMS VALUE

Article 23

The customs administrations of the States Parties may adopt a specific legal instrument to incorporate the common model Customs Value Declaration.

Each State Party may determine in which cases or at what moment it is appropriate to require the Customs Value Declaration and decide on whether it is mandatory to include this document for customs clearance purposes.

Article 24

Presentation of the Customs Value Declaration does not exempt the importer from the requirement to provide additional information or documents necessary to control the declared value of the goods.

CHAPTER 6 SPECIAL CASES

Article 25

The determination of customs value shall be subject to the provisions of specific community rules in the case of:

- (a) goods imported by travellers as luggage;
- (b) goods intended for permanent diplomatic missions or consular departments and their staff;
- (c) goods intended for permanent representative offices of international organizations to which the State Party belongs and their staff, experts, technicians and consultants;
- (d) goods contained in international postal consignments and airmail parcels, not subject to the general import regime;
- (e) imports of a non-commercial nature.

Article 26

In the case of goods subject to a duty suspension procedure, the customs value shall be determined by applying the rules and procedures established in this Regulation, without prejudice to determination of the customs value in the event of non-compliance with the procedure or clearance for home use.

CHAPTER 7 FINAL AND TRANSITIONAL PROVISIONS

Article 27

Until the MERCOSUR Customs Code is adopted, the port or place of importation referred to in Article 5 is the point of entry of the goods into the respective customs territories of the States party to MERCOSUR.

Article 28

In cases not covered by this Regulation, the legislation in force in each State Party shall apply pending the adoption of the corresponding MERCOSUR legal instrument.

Article 29

Until special provisions are issued, this Regulation shall also apply to intra-zone operations.

Article 30

The legislation of the States Parties shall apply on a supplementary basis, insofar as it is not inconsistent with this Regulation.

		DIVISAS		TIPO DE CAMBIO	MONEDA NACIONAL
		CÓD.	IMPORTE		
(A) BASE DE CÁLCULO	13. (a)Precio neto en la moneda de facturación (Precio efectivamente pagado o por pagar en el momento a considerar para la determinación del Valor Aduanero)..... (b)Pagos indirectos – ver ítem 9 (b)				
	14. TOTAL "A"				
(B) ADICIONES: IMPORTES NO INCLUIDOS EN "A"	15. COSTOS Y GASTOS SOPORTADOS POR EL IMPORTADOR (a)Comisiones, excepto las de compra (b)Corretajes..... (c)Envases y embalajes				
	16. Los valores debidamente repartidos de los bienes y servicios suministrados por el comprador gratuitamente o a precio reducido, y utilizados en la producción y venta para la exportación de mercaderías importadas: (a)Materiales, componentes, partes y elementos semejantes incorporados a las mercaderías importadas (b)Herramientas, matrices, moldes y objetos similares utilizados para la producción de las mercaderías importadas (c)Materiales consumidos en la producción de las mercaderías importadas..... (d) Trabajos de ingeniería, de estudio, artísticos y de diseño, planos y croquis realizados fuera del MERCOSUR y necesarios para la producción de las mercaderías importadas				
	17. Cánones y derechos de licencia ver apartado 10 (a)				
	18. Producto de cualquier reventa, cesión o utilización posterior que revierta al vendedor ver apartado 10 (b)				
	19. Costos y gastos de entrega hasta (local de importación) (a)Transporte (flete)..... (b)Carga, descarga y manipulación..... (c)Seguro.....				
	20. TOTAL "B"				
	21. Gastos de transporte interno.....				
	22. Intereses de financiación (Decisión del Comité de Valoración Aduanera del 28/04/84)				
	23. Otros Gastos				
	24. Gastos relativos a trabajos de construcción, instalación, montaje, mantenimiento o asistencia técnica realizados después de la importación siempre que se distingan del precio pagado o por pagar.....				
	25. Derechos y demás tributos a pagar como consecuencia de la importación, o de la venta de las mercaderías.....				
	26. TOTAL "C"				
27.	VALOR DECLARADO ("A"+"B"-"C")				