



21 October 2019

(19-6866)

Page: 1/4

Committee on Customs Valuation

Original: English

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

CHECK-LIST OF ISSUES

MYANMAR

The following submission, dated 18 October 2019, is being circulated at the request of the delegation of Myanmar.

1. Questions concerning Article 1:

(a) Sales between related persons:

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

Yes, there is no special provision on the sale between related persons as the definition of the related person is described in Paragraph 2(q) of Procedure on Customs Valuation Notification No. 91/2017. And concerning with the sale between the related person is prescribed in box 11 (b) and (c) of Value Declaration Form 1 as the following questions:

- "(b) Can you demonstrate that the price had not been influenced by the relationship by examination of the circumstances surrounding the sale?
- (c) Can you demonstrate that the price had not been influenced by the relationship by test value?"

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

No, the fact of intercompany prices shall not be considered as grounds for regarding the respective prices as being influenced when there is the relationship between buyer and seller. If the relationship does not influence the price even there is relationship between buyer and seller, the value shall be accepted as transaction value.

(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))

Only upon the written request by importer, written reply by Customs Officer on how Customs Valuation for the goods is decided is prescribed in the Paragraph 46 of Procedure on Customs Valuation Notification No. 91/2017.

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

The definition of the related person is described in Paragraph 2(q) of Procedure on Customs Valuation Notification No. 91/2017. And concerning with the sale between the related person is prescribed in box 11 (b) and (c) of Value Declaration Form 1 as the following questions:

- "(b) Can you demonstrate that the price had not been influenced by the relationship by examination of the circumstances surrounding the sale?
 (c) Can you demonstrate that the price had not been influenced by the relationship by test 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 provision on valuation of lost or damage goods is described in Chapter 11, Paragraph 36 of Notification No. 91/2017.

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?

Chapter (2), Paragraph 5 of Notification No. 91/2017 is fully complied with Article 4 of the Customs Valuation Agreement (CVA).

3. How has Article 5.2 been implemented?

The provision for the Article 5.2 is prescribed in Chapter 6, Paragraph 24 of Notification No. 91/2017.

4. How has Article 6.2 been implemented?

If it is necessary, Myanmar will follow the provision of Article 6.2 as Myanmar has implemented the Method 5 of the CVA in accordance with Notification No. 91/2017.

5. Questions concerning Article 7:

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

The provision of Chapter 8, Paragraphs 28 and 29 of Notification No. 91/2017 has been made for making value determinations pursuant to Article 7 of the CVA.

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

The written request by importer and written reply by Customs Officer on how Customs Valuation for the goods is decided is prescribed in Paragraph 46 Procedure on Customs Valuation Notification No. 91/2017.

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

Yes. The provision on the prohibition delineated in Article 7.2 of the CVA is implemented as Chapter 8, Paragraph 28 of Notification No. 91/2017.

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?

According to the Myanmar Trade Policy, Customs Value of imported goods shall be based on Incoterms CIF. Chapter 3, Paragraph 9 and Chapter 12, Paragraph 37 of the Procedure on Customs Valuation Notification No. 91/2017 also stated that Customs value of imported goods is the value base on CIF value. In case of FOB and Ex-factory price, the cost and charges mention in Article 8.2 shall be added to get the CIF value.

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

According to the Chapter 14, Paragraph 42 of the Procedure on Customs Valuation Notification No. (91/2017), valuation shall be calculated with weekly average exchange rate stipulated by Customs Department based on daily exchange rate issued by Central Bank of Myanmar.

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

Article 10 is implemented by Chapter 14, Paragraph 43 of the Procedure on Customs Valuation Notification No. 91/2017. For the mutual trust, all information submitted on the confidential basis to Customs Authority for the purpose of Customs Valuation shall not be disclosed without permission of the Director General of Customs Department or the requirement 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 without fine are opened to the importers in accordance with Paragraph 44 to Procedure on Customs Valuation Notification No. (91/2017).

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

The importer has a right to appeal for the value determined by Valuation Section to Director of the Export Import Control Division. The importer has the right to further appeal to Director General of the Customs Department. The decision of the Director General of Customs Department shall be final and binding.

10. Provide information on the publication, as required by Article 12, of:**(a) (i) The relevant national laws;****(ii) The regulations concerning the application of the Agreement:****(iii) The judicial decision and administrative rulings of general application relating to the Agreement:**

General or specific laws being referred to in the rules of implementation or application.

The Ministry of Planning and Finance, by exercising its power conferred by Sections 30 and 204 of Sea Customs Act, Procedures on Customs Valuation Notification No. 91/2017 dated 13 September 2017 is implemented in accordance with the CVA and it is published in Government Gazette.

It is also published on the internet on the website of Myanmar Customs Department (www.myanmarcustoms.gov.mm) and Myanmar Customs Department conducted training on Customs Brokers, the public awareness section and circulated the brochure to the Exporters, Importers and persons who involving in trade.

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

There is no further rule concerning with Article 12 of the CVA.

11. Questions concerning Article 13:**(a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?**

The obligation of Article 13 (last sentence) is being dealt with the Chapter 14, Paragraph 45 of the Procedure on Customs Valuation Notification No. 91/2017.

(b) Have additional explanations been laid down?

Additional explanations have not been laid down yet.

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?

In accordance to the Chapter 14, Paragraph 46 of the Procedure on Customs Valuation Notification No. 91/2017, the importer have the right to request in writing to give an explanation on how the customs value was determined to officer-in-charge of the Valuation Unit and if so requested, such office shall reply.

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

There is no further regulation concerning an above mentioned request yet.

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

Some of the Description of the Interpretative Notes of the Agreement have been included as part of the Procedure on Customs Valuation Notification No. 91/2017.

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

Myanmar will apply the Decision 3.1 on the Treatment of Interest Charges in the Customs Value 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?

Myanmar will not apply the Decision 4.1 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment.
