

WORLD TRADE ORGANIZATION

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Committee on Customs Valuation

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT ON CUSTOMS VALUATION

Checklist of Issues

The following communication, dated 16 May 2001, has been received from the Permanent Mission of Malaysia.

I am pleased to submit on behalf of Malaysia the WTO Customs Valuation Checklist of Issues.

1. Question concerning Article 1

(A) Sales between related persons

- (I) Other than the provisions provided under Article 1, there are no special provisions in the national legislation for sales between related persons.
- (II) Inter company prices itself does not itself constitute ground for the rejection of transaction value. Each case will be determined on the facts and circumstances of the case.
- (III) Regulation 12 of the Customs Regulation (Rules of Valuation) 1999 contained the provisions of Article 1.2(b).

(B) There are no special provisions in the legislation as to the price of lost or damaged goods. The text of the Technical Committee is used as a guide in determining the value of this goods.

2. Regulation 3(4) of Customs Regulation (Rules of Valuation) 1999 contained the provisions of Article 4.

3. This Article (Article 5.2) has been formally implemented and regulation 8(4) had provided for this provision.

4. No, this provision is not provided in the national legislation.

5. Questions concerning Article 7.

(A) Regulation 10 of the legislation contained the provisions of Article 7. The provisions of Regulation 10 are as follows:

10(1) - Where the customs Value of imported goods cannot be determined under Regulation 4 to 9, the Customs value shall be determined on information available in Malaysia on the basis of a value derived from the methods of valuation set out in regulation 4 to 9 interpreted in a flexible manner and reasonably adjusted to the extent necessary to arrive at a Customs Value of the goods.

(B) Yes, this provision is contained in Regulation 12.

(C) No, the prohibitions in Article 7.2 are not delineated.

6. The national legislation has provided for the inclusion of transport, insurance and loading/unloading charges in the Customs Value.

7. Regulation 13(1) states that the Customs Value of imported goods shall be calculated in Malaysian Ringgit and any currency conversion to determine the Customs Value shall be based on the rate of exchange issued by the Director General.

8. Section 125A of the Customs Act 1967 contained the provision of Article 10. The Customs Act 1967 was amended in 1998 to provide for this provision.

9. Question concerning Article 11:

- (A) Section 143A of the Customs Act contained the provision of Article 11. Under this section, an importer or any other person aggrieved by the decision of the Director General can appeal to the courts. As such an importer can appeal within the customs administration but his final right to appeal lies with the court.
 - (B) If it is within the administration, the importer will be informed of his right to further appeal.
10. (A)
- (I) The relevant national legislation are the Customs Act, Customs Regulation (Rules of Valuation) 1999 which contains the method of valuation and Customs Regulation 1999.
 - (II) Customs Regulation (Rules of Valuation) 1999, a subsidiary legislation governs the practical application of the Agreement.
 - (III) At this moment, there are no judicial decision and administrative rulings issued. Only judicial decisions and administrative rulings of other countries are circulated to the officers.
- (B) Since Malaysia implemented to WTO Valuation code on 1st January 2000, publication of rules are anticipated in the future. The topics that maybe covered are the use of transaction value, the rejection of transaction value, related party transactions and rulings on the inclusion or exclusion of royalties.
11. (A) The Customs Act 1967 has provisions regarding Article 13.
- (B) Yes, additional explanations have been laid down through departmental circulars.
12. (A) Yes, the Customs Regulation (Rules of Valuation) 1999 contained a provision requiring customs authorities to give explanation in writing as to how the Customs Value was determined.
- (B) No.
13. No, the interpretative notes of the agreement had not been included.
14. Yes, the provisions of decision of 26 April 1984 are contained in the Customs Regulation (Rules of Valuation) 1999.
15. The decision of 24 September 1984 on the valuation of carrier media bearing software for data processing equipment had been implemented by the inclusion of this decision in the Customs Regulation (Rules of Valuation) 1999.
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