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**Working Party on the
Accession of Viet Nam**

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ACCESSION OF VIET NAM

Action Plan for the WTO Agreement on Implementation of
Article VII of GATT 1994 (Customs Valuation Agreement – CVA)

Revision

The Government of the Socialist Republic of Viet Nam has submitted the following revised Action Plan for the implementation of the WTO Agreement on Implementation of Article VII of GATT 1994 (Customs Valuation Agreement – CVA), with the request that it be circulated to the members of the Working Party.

The Roadmap on Implementation of the Agreement on
Implementation of Article VII of GATT 1994

(Customs Valuation Agreement – CVA)

Introduction

1. At the 5th meeting of the Working Party on Vietnam's accession to WTO, Vietnam submitted to the WP and members the Action Plan on implementation of the Agreement on Implementation of Article VII of GATT 1994 (Customs Valuation Agreement – CVA). The Action Plan was prepared in the context that Vietnam was exploring options for the transition from her own valuation system which generally based on prices list predetermined by Customs to a system compatible with fundamental principles of CVA which basically rely on transaction value by importers. In the face of challenges posed by complexity and the technical and technological requirements in the implementation CVA as well as by limited management, implementation capacity of the Government of Vietnam, the Action Plan indicated certain concerns from the Government of Vietnam, particularly in regard of a time period for the system to be in full compliance with the CVA.
2. After the 6th WP meeting, Vietnam has received questions from WTO members on the specific timing for her Customs valuation system to be in full compliance with the CVA obligations.

Objective

3. In order to enhance transparency and to reaffirm the Government of Vietnam's determination in the implementation of the CVA, in this paper, Vietnam wishes to inform the WP and members on developments in the implementation of the afore-mentioned Action Plan and provides a detailed program comprised of steps in transition from her own system to a CVA compliant system. Vietnam wishes to reach agreement with members on a transition period which is in line with Vietnam's implementation capacity. The Government of Vietnam again reaffirms its commitment to CVA and wish to, during the negotiation for accession, its implement steps to this effects.

Development in the transition to CVA-based system

- Adopting domestic legal framework

4. Though the valuation system in Vietnam is mainly based on price list provided by Vietnamese Customs, since 2001, Viet Nam has initiated steps to prepare for the implementation of CVA by promulgating *Law on Customs*, which creates legal framework for CVA implementation. Provisions of this Law allow importer to clear imported goods by paying deposit or ensure the ability to pay import duty for those goods, in cases where valuation is not completed. Vietnam current legislation has required that Customs should notify the amount of tariff payable within 8 working hours from the submission of Customs declaration for such imported goods.
5. Customs Law has laid the foundation for the post clearance inspection, which is basically supportive of the implementation of CVA action plan. Under Customs Law, the Decree No. 102/2001/ND-CP dated 31 December 2001 promulgated by Government had regulated in details procedures and processes to conduct post-clearance examination for exported and imported goods.

6. A draft Circular which provides guidelines to implement Government Decree No.102 by regulating detailed professional process and procedures of Customs officers, is in final stage before issuance (expected to issue by the end of 2003).
7. In terms of dispute and complaint settlement, the Customs Law provides for the right to bring cases to court and administrative complaint which is in conformity with Vietnam's general rules, that is, only a single option to select either administrative procedures or to court settlement is available. In order to comply with provision of Article 7 of CVA, Vietnam plans to revise the general rules to afford importers right to lodge appeal to court as well as settlement by administrative procedures in Legislative Program.
8. Domestic legislation for Customs valuation system of imported goods in accordance to regulation of The Agreement on implementation Article 7 of GATT 1994 is basically completed with the promulgation of the Government's Decree No. 60/2002/ND-CP dated 6 June 2002. The Government's Decree No.60/2002/ND-CP is drafted on the basis of The Agreement on implementation Article 7 of GATT 1994, which provides in details methods of determining customs value and others adjustment clause in Article 1- Article 8 and Annex I of Agreement.
9. A draft Circular to provide guidelines for Customs procedures in details to implement Decree No. 60 is in the final stage so that the provisions of Government Decree 60 will take effect from 1 January 2004 on a pilot basis for certain target groups before an improved system will take full effect on importers at Vietnam's accession to WTO.

- ***Reservations***

10. Because of current limitations in capability and information database resources of Customs offices, there is currently provision in Decree No.60/2002/ND-CP on the non-application of the computed value method (Article 6 of CVA) and the deductive method for processed goods (Paragraph 2 of Article 5 of the Agreement mentioned in Annex III.4). Vietnam will try to improve the capacity of Customs officers in a short period of time to fully implement all of methods of customs value determination. Viet Nam wishes to reach agreement through negotiations with WP members on the phasing-out of these reservations as provided for in Article 20.2 and Annex III.4, respectively.
11. Given current budget revenue structure that comprises of high proportion from import duties (18-20%) and frequent trade frauds through prices, a swift transition to CVA-based system in Vietnam in full would create a real difficulty to Vietnam's budget. Thus, Decree No.60/2002/ND-CP provides for the application of minimum price on a limited number of products in initial stage of implementation. Along with the strengthened capacity of Customs administrations, particularly its capability in trade frauds detection and prevention and adjustment of revenue structure, Vietnam will gradually phase out reservation in this regard so that valuation of import goods is to be based on transaction value (the time-bound phasing-out schedule presented in the last part of this paper). Vietnam wishes to have endorsement by WP members on this reservation and the phasing-out schedule.

- ***Organizations and deployment:***

12. In transition from current valuation system to a CVA based system, Vietnam needs to focus a considerable human resources on the implementation, a difficult and decisive factor of success. Vietnam had reorganized the Customs administration, specifically: the General Customs Department is directly under the Ministry of Finance, General Customs Department

is restructured and strengthened with the establishment of new department and bureau to be in charge of valuation, post-clearance inspection and supervision management.

13. In order to improve capability of Customs officers in valuation, professional training and reinforced Customs structure in all levels have been conducted simultaneously and rapidly so that CVA implementation capacity is strengthened at all levels. A manual on CVA implementation for Customs officers is being compiled.
14. In 2003, Viet Nam has established teams and groups to give advice and help enterprises in Customs declaration and determination of value in line with new method. Customs procedure is basically completed. Seminars, workshops on CVA implementation and technical issues were organized, with attendance by import, export enterprises, forwarding agencies, and legal consulting firms.
15. Customs tools and machines have been provided to facilitate the valuation and on the other hand, forming of part of the whole program to modernize Vietnam Customs. However, financial constraints is hindering this process. Vietnam is seeking technical and financial assistance to overcome difficulties to this endeavour from bilateral and international donors.
16. Viet Nam is building up price database and in the first stage, finalizing software and test running at certain Customs bureaus. However, this process has been slower than planned due to fiscal constraints and limited international cooperation in this regard.

Commitment on schedule to phase-out reservation on minimum price

17. At the accession, Viet Nam will apply an uniform Customs valuation system, which is based on CVA (as provided for by Viet Nam Government's Decree No.60/2002/ND-CP) with only remaining reservation relates to minimum Price List applicable to a limited number of products. This list applies on non-discriminatory basis regardless of origins and will be provided to WTO at the earliest instances as the current list is under review to remove possible measures on origins and brands.
18. This reservation on Minimum price List will be gradually phased-out as follows:
 - 1 January 2004: pilot implementation of Decree No. 60/2002/ND-CP on valuation of imported goods in accordance with the principles of Agreement on implementation Article 7 of GATT 1994 principle, with the reservations on application of minimum price list on selected items.
 - 1 July 2004: Transaction value will be used for valuation of imported products regardless of origin to be used as inputs for domestic production; those inputs exempted from Customs duties or entitled to Customs duties refund.
 - 1 January 2005: Transaction value applicable to importers which have good compliance record (minimum price will not apply to importers which have good compliance record)
 - 1 January 2006: Transaction value applicable to imported products for which tariff rates are lower than 10% (minimum price will not apply to imported products, for which tariff rate are lower than 10%).

- 1 January 2007: Assessment and stock-taking of experiences from implementation of transaction valuation; streamlining legal framework to prepare for full implementation CVA for all import export transactions.
 - 1 July 2007 Transaction valuation applicable to all imported goods (termination of Minimum price List use)
19. At the same time, Viet Nam will promote management and supporting activities to establish a favorable external environment to assist to CVA implementation, including:
- Strengthening independent audit organizations to enhance reliability of documents and enterprise account records in tandem with promulgation regulations on documentation of payment regime related to importation and exportation.
 - Establishing and improving a monitoring system of payments carried out through banks while minimizing both domestic and international cash-hand-over transactions, which are at times illegal.
 - Strengthening sanction system against fraudulent activities which is currently yet to be strict or clear or specifically designed to fight fraudulent activities and just heavily administrative in nature.
 - Improving co-ordination, co-operation between relevant authorities in transaction Customs valuation as well as post-clearance supervision.
 - Organizing information and PR campaign to encourage business community improving self-compliance practices with the new regulations.
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