

REPORT OF THE COMMITTEE ON CUSTOMS VALUATION TO THE GENERAL COUNCIL ON PARAGRAPH 8.3 OF THE MINISTERIAL DECISION ON IMPLEMENTATION-RELATED ISSUES AND CONCERNS (WT/MIN(01)/17)

Background

1. Following adoption of the Ministerial Declaration and the Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/DEC/1 and WT/MIN(01)/17) at Doha, the Committee on Customs Valuation has held seven meetings this year to carry out the mandate contained in paragraph 8.3 of the Decision on Implementation-Related Issues and Concerns. Substantive work was carried out at three meetings, those of, 30 September-1 October, 4-5 November, and 29 November. The reports of these meetings are contained in documents G/VAL/M/31, G/VAL/M/32, and G/VAL/M/33 to be issued.

2. The Committee's mandate in paragraph 8.3 states that the Ministerial Conference,

"Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest."

3. The Committee received three submissions on this matter. The submission from India is contained in G/VAL/W/102, from Canada is contained in G/VAL/W/110, and from the European Communities in G/VAL/W/112. In addition, the Committee received questions from Mexico on the Indian proposal which were circulated in G/VAL/W/104.

The main aspects of the submissions received

4. The Indian submission identified a practical format and procedure for the exchange of information. The format for exchange of information on Customs Valuation should provide certain essential elements, namely, details concerning the merchandise to identify the transaction, the nature of information to be sought by the requesting administration, the time frame for furnishing the information, confidentiality of the information and the safeguards. The procedure would involve the

channel of communication between the importing country and the exporting country for the exchange of required information. The channel of communication should be simple, fast and effective and should also be capable of being monitored. One option could be identifying agencies or contact points in the Customs organization of each Member country for exchange of information through direct communication. The submission also contained a proposal for establishing a mechanism to monitor the implementation of the Decision which comprise an annual reporting requirement by Members to the Committee. The reporting system could indicate the number of requests made to other Members for exchange of information, the number of cases where response was received/not received, the number of cases where request for information was not acceded to by the exporting Member, and the reasons thereof.

5. The Canadian submission was premised on the idea that no one solution would address the concerns expressed but rather a combination of measures. In this regard, it identified several means to address concerns about the truth and accuracy of the declared value:

- (i) Examination of techniques or processes used by the Customs administration in conducting a valuation review. In this regard, the Committee should be aware that the Secretariat of the World Customs Organization (WCO) has been working on a Self-Assessment Guide for the consideration of the Technical Committee on Customs Valuation. The Guide would be essentially a “check-list” that would outline the various prior steps that would need to be taken to ensure that any such request for assistance only be made following thorough examination by the importing Member;
- (ii) Guidelines on the development and use of a valuation database as a risk assessment tool. Canada understands that the WCO is developing such Guidelines;
- (iii) Provision of focused technical assistance and capacity building efforts to those countries that are facing difficulties in ensuring compliance with the Customs Valuation Agreement;
- (iv) Exchange of information arrangements with key exporting countries. Distinguishing those cases of fraud from other cases where under-valuation (not deliberate) is suspected will assist in fostering exchange of information arrangements;
- (v) Prioritise reforming and modernizing the customs administration to: promote compliance; allow for more effective post-release verification processes; adopt risk-management processes; and, disseminate customs valuation policies and procedures;

6. The submission by the European Communities identified several actions, programmes and methodologies which were appropriate for customs administrations to ensure on-going training and capacity building, use of effective and efficient procedures, and use of appropriate tools in order to deliver a good standard of service. These actions, programmes and methodologies included;

- (i) Establishing appropriate work programmes to target areas where administrative development and capacity needs re-enforcement;
- (ii) Applying, adapting or supporting, as necessary, use of modern customs tools such as audit, risk management, and import specialisation;
- (iii) Establishing appropriate strategies to manage cases such as 'informal sector' trade;
- (iv) Introducing programmes for compliant and non-compliant traders;
- (v) Training and developing specialised services such as enquiry, investigative and anti-fraud units.

Conclusion

7. The Committee agreed that it would require technical input and advice to further evaluate all submissions and views, which it has requested from the Technical Committee (hereafter, the TCCV), on the basis of the terms of reference attached. The TCCV is to conclude its examination and report to the Committee by 15 May 2003 in order that the Committee may consider the technical inputs and advice provided. Therefore, the Committee requests the General Council to take note of the progress to date, to allow it to continue to work under the existing mandate, and to establish an appropriate time for reporting on the matter.

**TERMS OF REFERENCE FOR THE WORK OF THE
TECHNICAL COMMITTEE ON CUSTOMS VALUATION IN CONNECTION WITH
CONCERNS ON THE ACCURACY OF THE DECLARED VALUE**

Ministers at Doha adopted the Decision on Implementation-Related Issues and Concerns (WT/MIN(01)17), paragraph 8.3 of which:

"Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest."

The Committee on Customs Valuation (hereafter the Committee), in carrying out its mandate, has considered three written submissions, which aim to address this mandate. One from India is contained in G/VAL/W/102, from Canada in G/VAL/W/110 and from the European Communities in G/VAL/W/112. In light of these proposals, questions received from Mexico in G/VAL/W/104, and the exchange of views as contained in the minutes of the meetings (G/VAL/M/31 and G/VAL/M/32), the Committee requests the Technical Committee on Customs Valuation (hereafter, the TCCV), in accordance with paragraph 2(d) of Annex II of the Agreement on Customs Valuation, to provide technical input and advice on the issues listed below. In carrying out this request, the Committee urges the TCCV, in accordance with paragraph 3 of Annex II of the Agreement, to carry out its work as expeditiously as possible. In any case, the TCCV should conclude its work and report to the Committee by 15 May 2003.

In light of the elements contained in the above-mentioned submissions and those expressed by Members in the Committee's discussions, the Committee requests the TCCV to:

1) Examine the technical aspects of the practical means considered in the Committee or others related to them to address concerns about the accuracy of declared value, including the exchange of information on export values, to cover, *inter alia*, the following points:

- the elements contained in the format provided in the Annex of G/VAL/W/102, possibly taking note of the current work in the TCCV¹;
- the bilateral approach through exchange of information arrangements;
- techniques or processes used by customs administrations in the final determination and/or verification in respect of the value of goods;

¹such as the Draft Guide to the Exchange of Customs Valuation Information, under consideration by the TCCV.

- the method of communication and the ideal time-frame for exchange of information;
- the usefulness of contact points for exchange of information on export values.

2) Intensify its efforts towards finalizing the guidelines on the development and use of a valuation database as a risk assessment tool. The Committee also urges the TCCV to explore cooperation and coordination with similar work being carried out by other international organizations.

3) Taking into account relevant work of other bodies, indicate appropriate customs tools, mechanisms, and practices in cases involving fraud and suspected fraud, in customs valuation; indicate the feasibility of making a distinction between such cases in the context of exchange of information on customs value.

4) Provide data and information on the principles and practices governing cooperation and assistance between customs administrations, including practical technical assistance and capacity-building initiatives that might be appropriate to address concerns regarding the accuracy of the declared value.
