



TECHNICAL COMMITTEE ON
CUSTOMS VALUATION

-
47th Session
-

VT1145E1a
(+ Annex)

O. Fr.

Brussels, 9 July 2018.

SPECIFIC TECHNICAL QUESTIONS

INTERPRETATION OF THE VALUE OF ADJUSTMENTS
UNDER ARTICLE 8.1 (b) OF THE AGREEMENT

Request by Uruguay
(Item V (b) on the Agenda)

Reference documents :

VT1110E1a (TCCV/45)
VT1126E1a (TCCV/46)
VT1133E1a (TCCV/46)

I. BACKGROUND

1. Following discussions held during the 46th Session of the Technical Committee, delegates agreed that the costs and charges for delivery of assists borne by the seller should normally be included in the price actually paid or payable of the imported goods to be valued; otherwise, they would have to be added to the price actually paid or payable when determining the customs value.
2. However, when these costs and charges are borne by the buyer and are not already included in the price actually paid or payable, several delegates maintained that they should be included in the customs value.
3. The Technical Committee agreed to continue its examination of this question at its next session, on the basis of an improved text which would take account of the relevant comments by Members, and seek consensus on the second aspect of the question set out in paragraph 2 above.

II. SECRETARIAT COMMENTS

4. The text of the draft Commentary submitted by Uruguay, set out in the Annex to Doc. VT1126E1a from the Technical Committee's 46th Session, is presented again herewith, subject to some minor amendments made to paragraph 3 in response to Members' comments.

III. CONCLUSION

5. Members are invited to continue the examination of this question submitted by Uruguay, based on the draft Commentary set out in the Annex to this document, and to send their written comments and suggestions to the Secretariat by **7 September 2018**, preferably by e-mail (e-mail : valuation@wcoomd.org). Comments sent in response to this document will be published and circulated to Members of the Technical Committee for examination at its 47th Session.

* * *

Draft Commentary

Interpretation of the value of adjustments under Article 8.1 (b) of the Agreement

1. Article 8.1 (b) of the Agreement provides that, in determining the customs value under Article 1, there shall be added to the price actually paid or payable the value of certain goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable.
2. The supply of such goods and services for use in connection with the production and sale for export of the imported goods involves calculating the value of the element and the way in which it is to be apportioned to the imported goods, as described in the interpretative note to Article 8, particularly in the note to paragraph 1(b)(ii) and the note to paragraph 1(b)(iv).
3. At the same time, however, since these goods and services have to be sent to the seller or manufacturer of the imported goods to be valued, their supply may give rise to other charges and additional costs, including in particular:
 - (a) charges for exporting the elements to be delivered to the seller,
 - (b) the cost of transport to the port or place of importation in the seller's country,
 - (c) loading, unloading and handling charges associated with such transport,
 - (d) the cost of insurance for transporting the elements,
 - (e) the cost of duties, taxes and customs formalities for importing such elements in the seller's country, and
 - (f) the cost of transport after importation in the seller's country.

This list is not exhaustive.
4. The question which then arises is whether these charges and additional costs are included in the customs value of the imported goods, particularly through their inclusion in the value of the considerations referred to in Article 8.1 (b).
5. The Agreement does not include a specific provision on this issue. The preamble, however, recognizes the need for a fair, uniform and neutral system for the valuation of goods for customs purposes based to the greatest extent possible on the transaction value in accordance with commercial practices.
6. In such cases, if any of these charges or costs were to be incurred by the seller, the respective amounts would be included directly in the price actually paid or payable established between the parties. If, on the other hand, any of these charges or costs were to be incurred by the buyer, they would not be included in the agreed sales price actually paid or payable.
7. In other words, according to the principles laid down in the Agreement and to ensure that it remains fair: when the above-mentioned charges and costs are incurred by the buyer but are not included in the price actually paid or payable, they will have to be included by apportionment in the value of the considerations provided for in Article 8.1 (b) for their final inclusion in the customs value. If they are incurred by the seller, they will not have to be included.