

**GENERAL AGREEMENT ON  
TARIFFS AND TRADE**

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VALUATION FOR CUSTOMS PURPOSES

Questionnaire for the Ninth Session

Addendum

Statements received from Governments

Replies to the questionnaire in L/228 have been received from the following governments and are reproduced herewith:

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A U S T R I A

The answers to the questionnaire on valuation for customs purposes base on the present Austrian legislation. It may be noted that it is envisaged by the Austrian Government to adopt the Brussels Definition on value within the near future.

Question 1.

There are neither administrative nor legal provisions which permit valuation for customs purposes to be based on arbitrary or fictitious values.

Question 2.

The existing legal provisions base values on the price to be paid by the purchaser of the largest quantities. This provision could include, theoretically, even a domestic price. According to the rules actually applied by the customs authorities, however, only foreign values are taken into account.

Question 3.

Valuation is based on a definition which seeks to establish as a standard the actual value of the imported merchandise. Article 16 of the Austrian Customs Law provides that valuation is based on the price which a merchandise of a like category and quality would fetch within the customs territory, excluded import duties and taxes. For the purpose of determination of this value the relevant provisions base on the price to be paid by the purchaser of the largest quantities.

Question 4.

Valuation is based on the values ascertained at the time of customs clearance.

Question 5.

As place of sale is considered the place where the customs clearance is carried out.

Question 6.

Valuations are based on the landed price in the importing country. Charges (freight, insurance, etc.) accruing up to the place of customs clearance are to be added.

Austria  
(continued)

Question 7.

Whenever the price depends upon quantity, the price used for valuation is uniformly that which relates to quantities comparable to the quantity to be valued. It may be recalled that valuation is based on the price to be paid by the purchaser of the largest quantities.

Question 8.

The price at which the merchandise has been sold or is offered for sale (invoice value) is accepted as the basis for valuation subject to such corrections as may be necessary to establish the price which a merchandise of the like category and quality would fetch within the customs territory.

Question 9.

There are neither administrative nor legal regulations providing for the use of alternative methods of valuation.

Question 10.

At present there is no legal provision governing this case. According to the existing customs practice the amount of all internal taxes from which the imported products have been exempted in the exporting country is excluded from dutiable value.

Question 11.

Conversion rates to be adopted for foreign currencies are established in accordance with the provisions of the agreement of the International Monetary Fund. The official rates of exchange based on the par value recognized by the International Monetary Fund are applied for valuation purposes. In regard to countries not belonging to the International Monetary Fund market rates are applied.

There are no various rates applied for the purchase of foreign exchange. If the product is coming from a country applying multiple rates of exchange, the official rate of exchange is taken as a basis for valuation.

Question 12.

A turnover equalization tax is assessed on the value of imported goods. For the purpose of assessing this equalization tax the invoiced price is taken as a basis. Charges (freight, insurance, etc.) accruing on the goods up to the place of customs clearance are to be added.

Question 13.

The Austrian export trade has met difficulties resulting from valuation methods and practices adopted by the United States.

BELGIUM/LUXEMBOURG

(Translation)

Question 1. No.

Question 2. No.

Question 3.

The legal provisions relating to customs valuation are based on Annexes I and II of the Convention on the Valuation of Goods for Customs Purposes, signed in Brussels on 15 December 1950. The so-called Brussels Definition takes as a standard the actual value of the imported goods liable to duty.

The legal provision containing the definition reads as follows:

"For purposes of customs duties, the value of the goods shall be deemed to be the normal price, that is to say, the price that they would fetch on the day of declaration on a sale in the open market between buyer and seller independent of each other".

Question 4.

Under Belgian law, it is the date when duty becomes payable, that is to say, the day of declaration, that merchandise is deemed to be sold or offered for sale for purposes of customs valuation.

Question 5.

For purposes of valuation, merchandise is deemed to have been delivered to the buyer on arrival from abroad at the first port or place of introduction into the territory of the Benelux countries or, in the case of merchandise imported by air, at the point where such merchandise crosses a Benelux frontier.

Question 6.

Valuation for customs purposes is deemed to be the price for delivery from abroad at the first port or place of introduction into the territory of the Benelux countries.

No account is taken of internal prices in the markets of the exporting and importing countries.

Question 7.

Under the laws in force, customs valuation must be based only on the quantity declared.

Question 8.

The invoice price is accepted as a basis for customs valuation subject to two reservations, namely:

- (a) that the merchandise is delivered following a sale in the open market between buyer and seller independent of each other;
- (b) that the normal price is not higher than the purchase price, plus expenses.

When the invoice price cannot be accepted - usually because the sale did not take place in fully competitive conditions between independent parties - customs valuation is established either by adjusting the invoice prices of the various articles which, in the sale under consideration, do not coincide with estimated values or differ from the usual competitive prices, or failing a better basis, by taking the sale price in the importing country, less expenses, marginal costs and import duties and dues.

In no case can the cost of production of imported products serve as a basis of valuation.

Question 9.

Belgian legislation on customs valuation has one uniform standard on which all valuations must be based to the exclusion of alternative methods.

Question 10.

No account is taken of internal taxes or charges from which the imported product has been exempted in the exporting country.

In other words, the invoice price, less internal taxes and charges in the exporting country, is accepted.

Question 11.

Where customs valuation has to be based on amounts expressed in foreign currency, conversion into Belgian currency is made in accordance with the official exchange rates current in Brussels during the morning of the day of declaration.

The rates in operation during the morning of the day of declaration are taken to mean the official exchange rates published the previous evening by the Exchange Commission in Brussels.

For the conversion of currencies with variable official rates of exchange, conversion is effected on the basis of the average official rate of those currencies, that is to say, the average between the buying and selling rates.

In the absence of official rates, the par values established by the International Monetary Fund are used.

Question 12.

In Belgium in addition to import duty, imported goods, unless specially exempted, are subject to a luxury or conveyance tax similar in nature to the stamp tax.

In this connection, no account is taken of customs valuation. Nevertheless, the regulations governing the levy of these taxes stipulate that in no case may the amount taken as a basis for such taxes on ad valorem dutiable goods be less than the value declared for the payment of import duty, plus the said charges.

Question 13.

Among the more serious difficulties which the Belgian import trade has met with as a result of valuation methods adopted by other contracting parties, attention may be called to the following.

1. Those resulting from the fact that certain customs services accept either the value in the country of origin or the export value according to which is higher. When either of these two values cannot be accepted, duty is then based on the sale price of a similar product in the importing country, or failing that, on the cost of production. Such methods complicate matters and lead to enquiries with the producer, delay valuation and entail subsequent rectifications with retroactive effect (sometimes as much as two years).
2. Those resulting from the inclusion in customs valuation of certain internal taxes levied in Belgium but from which the exported goods are exempted by law.

BELGIAN CONGO AND RUANDA URUNDI

(Translation)

Question 1. NoQuestion 2. NoQuestion 3.

(a) Yes

(b) Article 43 of the Decree of 29 January 1949 is worded as follows:  
"Subject to stipulations made hereinafter on the subject of the minimum valuation for customs duty, the value to be declared as a basis for ad valorem duty is the normal value of the goods in their place of origin, plus cost of packing, transport, insurance and commission, export dues and charges paid abroad and other costs arising out of their importation into the place of introduction into the Colony.

This value may not be less than:

1. The normal wholesale price established, at the place and time of customs clearance, on the basis of all available prices for similar imported goods, recognized as acceptable by the customs service;
2. The price actually paid or payable by the buyer importing the goods or by the person to whom they are to be delivered, plus expenses mentioned in the first paragraph above if these have not been included in the price, and minus any import duty and expenses incurred other than those mentioned above, when, although responsibility for such has been assumed by the seller, they have been included in the price.

Article 44 of the Decree of 29 January 1949 is worded as follows:

"The declarer must supply the customs authorities with the invoice or a copy thereof and, in general, with any supporting documents permitting verification of the value declared."

Question 4.

It is the date of arrival of the goods in the territory of the Colony which is accepted.

Question 5.

It is the place of introduction of the goods into the Colony which is accepted.

Question 6.

(a) No. Valuation for customs purposes is based on the invoice price (see Article 43 above).

Belgian Congo and Ruanda Urundi  
(continued)

(b) No

(c) No

Question 7.

The price considered for the determination of customs valuation is the price actually paid, plus the expenses mentioned in Article 43.

Question 8.

To the extent that the invoice price corresponds to the standards laid down in Article 43.

When the invoice price is not accepted, resort is had to the procedure described in Articles 46-51 of the Decree of 29 January 1949, the text of which is given below:

Article 46 - When the value established by the customs service in accordance with Article 43 is higher than the declared value, the customs service may require the declarer to submit a supplementary declaration in writing.

Article 47 - Within five days from the notification to the declarer of the increase in the value established in accordance with Article 46, the person concerned may request, in writing, the customs service to submit the point at issue to the Director of Customs in Leopoldville.

If the decision taken by that official, which must be notified by registered letter, is in favour of the claimant, the defendant may appeal within five days from the receipt of such decision to the Provincial Appeal Council.

The Appeal Council decides in final instance within fifteen days from the receipt of the appeal, which must be lodged by registered letter.

Article 48 - Appeal councils are set up by the Governor-General who determines their membership and terms of reference.

Article 49 - When the Appeal Council recognizes the accuracy of the declared value, an indemnity of 1 per cent of the value of the goods per month of thirty days, is granted, at the declarer's request, except where the goods have been cleared subject to guarantees in accordance with Article 51. This indemnity is calculated on the basis of the number of days between the day following the date of the notification provided for in Article 46 and the day (included) on which the declarer was notified by the customs service that the goods have been put at his disposal.

In such cases, storage dues are not chargeable during the period of litigation.

Article 50 - When the declarer fails to pay the supplementary duty and any fine imposed on him within fifteen days from the notification of the Appeal Council's decision, or the decision of the Customs Director or local customs

chief, against which no appeal has been lodged, the goods are considered as unclaimed and are treated as provided for in Article 55.

Article 51 - When the value of the goods can be established from samples, the declarer may be authorized to dispose of all or part of them on depositing security for the supplementary duties claimed and for the fine payable, if any. In no case may the security be higher than the value of the goods as established by the customs service.

Question 9.

The regulations make no provision for the use of alternative methods of valuation.

Question 10. Yes

Question 11.

When the value of the goods is expressed in foreign currency, it is converted into Congolese currency on the basis of the last average rate established by the Governor-General and operative the day before the declaration was deposited with the customs service. (Rate communicated by the Central Bank of the Belgian Congo and Ruanda Urundi.) (Article 45 of the Decree of 29 January 1949).

Question 12.

(a) The statistical tax.

The same methods are applied for fixing the rate of the statistical tax as for determining ordinary customs duty.

(b) In case of undor-valuation.

The Colony does not levy any ad valorem internal tax on imported goods.

Question 13.

Not to the knowledge of the Ministry for the Colonies.

B R A Z I L

Question 1.

No valuation for customs purposes based on arbitrary or fictitious value is permitted.

Question 2.

No valuation for customs purposes based on value of comparable domestic products is permitted.

Question 3.

Article 49 and paragraphs 1 to 3 of the Tariff Preliminary Rules runs as follows, ipsis verbis:

"The basic value for imported merchandise subject to ad valorem duties is that stated in the Consular and commercial invoices, provided there are no grounds for its non-acceptance:

Para. 1st. Should, however, the value be deemed prejudicial to the Treasury, as obviously not corresponding to the true value of the goods, the basic price of the exporting home market will be taken as a valuation, plus all expenses incurred after the purchase, such as: internal taxes in exporting countries, freight, insurance, commissions and all other expenses found by rightful means within the power of the Customs Officer.

Para. 2nd. Should the price so obtained still prove prejudicial and the above-mentioned data be deficient, the value of the merchandise will be calculated according to the average market value of the importing home market with the following reductions: 25% when the ad valorem tax is less than 40%, and 30% when this is equal or superior to 40%.

Para. 3rd. If the value verified in this manner does not exceed 5% of the amount, clearance will be carried out according to these."

With reference to the regulation quoted above perhaps the following comments would be of interest:

Transactions settled in foreign exchange may be valued at from specified points in the process of sale: a) f.o.b. value in exporting country; b) market value in exporting country; c) c.i.f. value in importing country, and d) market value in importing country.

Brazil  
(continued)

Of ninety-four countries in the January-June 1951 quarterly issue of Direction of International Trade (UN IMF IBRD) only 15 are stated to value imports on the f.o.b. exporting country basis. Of these, Canada, United States and the Union of South Africa use their basic import value definition roughly either "f.o.b. exporting country" or "market price in exporting country". Duties are assessed on the whichever higher basis. The "c.i.f. in importing country" is the basis for most countries' import values. It has the advantage, of course, that ad valorem duties are assessed on the basis of a value more nearly comparable to domestic value than an f.o.b. or foreign market type of valuation. The c.i.f. cost essentially measures the price at which goods come into competition with domestic products. Valuation on the basis of a market price in the importing country is a type of value definition used by some countries. This method has the advantage of more accurately valuing imports on the same basis as domestic products than a c.i.f. figure. It also allows greater flexibility of government control of the duties assessed on imports at an ad valorem rate. It, moreover, is a valuable definition for comparing imports with the domestic economy as well as their effects on domestic industry, agriculture and commerce. Finally, it meets more fully duty collection purposes since it prevents more stringently the evasion of duties through undervaluation, and the building up of private balances abroad by importers through over-invoicing.

The avoidance of this last practice is an important motive for the adoption of the market price in the importing country. For example, if country A licenses the expenditure of foreign exchange only for imports of goods it considers essential, an importer in A wishing to avoid this control may arrange with his foreign supplier in, say, country B to overvalue a shipment of an essential item from B to A. The excess foreign exchange granted to the importer in A by his government may then be held in country B for use in paying for the imports of non-essential goods or for the purchase of non-essential services such as travel, for which the government of country A would not grant a licence to spend foreign exchange at the official overvalued rate of exchange.

Official valuation in the importing country may nevertheless be insufficient to avoid over or undervaluations. One instrument which countries have used for many years to prevent overvaluation is to require consular invoices as part of import requirements. The consul, being familiar with prices in the exporting country, can effectively prevent either undervaluation designed to avoid the payment of full ad valorem duties in the importing country which adopts the f.o.b. or the exporter market method of valuation, or overvaluation designed to avoid any exchange control restrictions in the manner described before.

Brazil  
(continued)

Of ninety-four countries in the January-June 1951 quarterly issue of Direction of International Trade (UN IMF IBRD) only 15 are stated to value imports on the f.o.b. exporting country basis. Of these, Canada, United States and the Union of South Africa use their basic import value definition roughly either "f.o.b. exporting country" or "market price in exporting country". Duties are assessed on the whichever higher basis. The "c.i.f. in importing country" is the basis for most countries' import values. It has the advantage, of course, that ad valorem duties are assessed on the basis of a value more nearly comparable to domestic value than an f.o.b. or foreign market type of valuation. The c.i.f. cost essentially measures the price at which goods come into competition with domestic products. Valuation on the basis of a market price in the importing country is a type of value definition used by some countries. This method has the advantage of more accurately valuing imports on the same basis as domestic products than a c.i.f. figure. It also allows greater flexibility of government control of the duties assessed on imports at an ad valorem rate. It, moreover, is a valuable definition for comparing imports with the domestic economy as well as their effects on domestic industry, agriculture and commerce. Finally, it meets more fully duty collection purposes since it prevents more stringently the evasion of duties through undervaluation, and the building up of private balances abroad by importers through over-invoicing.

The avoidance of this last practice is an important motive for the adoption of the market price in the importing country. For example, if country A licenses the expenditure of foreign exchange only for imports of goods it considers essential, an importer in A wishing to avoid this control may arrange with his foreign supplier in, say, country B to overvalue a shipment of an essential item from B to A. The excess foreign exchange granted to the importer in A by his government may then be held in country B for use in paying for the imports of non-essential goods or for the purchase of non-essential services such as travel, for which the government of country A would not grant a licence to spend foreign exchange at the official overvalued rate of exchange.

Official valuation in the importing country may nevertheless be insufficient to avoid over or undervaluations. One instrument which countries have used for many years to prevent overvaluation is to require consular invoices as part of import requirements. The consul, being familiar with prices in the exporting country, can effectively prevent either undervaluation designed to avoid the payment of full ad valorem duties in the importing country which adopts the f.o.b. or the exporter market method of valuation, or overvaluation designed to avoid any exchange control restrictions in the manner described before.

Brazil  
(continued)

Questions 4 and 5.

As per Article 49, in question 3.

Question 6.

With reference to (a) and (b) vide paras. 1st. and 2nd. of question 3 above.

Question 7.

The value declared on the invoices, regardless of quantity. In case of doubt, however, quantity may be used as a basis for checking value.

Question 8.

Regarding (a); item one and two - vide question 3.

Question 9.

As per the regulation quoted in question 3.

Question 10. Yes, we do.

Question 11

Item one - The conversion of foreign currencies for valuation is based on the exchange rate of the past month, issued by the Bank of Brazil.

Item two - Yes, we apply it as a basis for exports and imports according to provisions accepted as temporary by the International Monetary Fund.

Item three - The rate applied for valuation purposes is the par value declared to the Fund, that is Cr.\$ .18,36 per US dollar.

Question 12.

There is a minor tax of 2% assessed on the value of imported goods for Social Assistance Fund.

Question 13. No.

FEDERAL REPUBLIC OF GERMANY (Corrigendum)

The German delegation asked to replace the reply to Question 11 on page 19 by the following statement:

"In the case of foreign currencies in which foreign exchange dealings at the stock exchange have been authorized, conversions are made on the basis of the rates published by the Bank Deutscher Laender, which are established in conformity with the par values fixed by the International Monetary Fund. In the case of any other foreign currency, conversions are made on the basis of the selling rate officially fixed by the Bank Deutscher Laender. The rates to be applied are officially communicated to the customs offices by the Federal Minister of Finance."

G R E E C E  
(Translation)

Question 1.

There are no administrative or legal provisions which permit valuation for customs purposes to be based on arbitrary or fictitious values. On the contrary, Article 3 of the Customs Code states that "on importation the value to be declared is the normal price of the goods, that is to say the price they would fetch on a sale in the open market between buyer and seller independent of each other".

Question 2.

There are no administrative or legal provisions which permit valuation for customs purposes to be based on the values of comparable domestic products.

Question 3.

The determination of value is based on the actual value of the imported merchandise on which duty is to be assessed.

Question 4.

The time of sale accepted for valuation purposes is the date of receipt of the goods.

Question 5.

The place accepted as the place of sale, or offer of sale, for valuation purposes, is the port or place of importation into Greek territory.

Question 6.

Under the laws in force in Greece, valuation for customs purposes is based on the price of the merchandise landed in the country.

Question 7.

Where price depends on quantity, account is taken for valuation purposes of the price of quantities comparable to the quantity to be assessed.

Question 8.

The invoice price is the criterion of appreciation for customs valuation. Valuation is based on the normal price of the goods, that is to say the price which they would fetch on a sale in the open market between a buyer and a seller independent of each other.

Greece  
(continued)

Question 9.

Greek regulations do not provide for any alternative methods of valuation.

Question 10.

The taxes from which the imported goods have been exempted in the exporting country are not included for purposes of customs valuation.

Question 11.

The conversion of foreign currency for valuation purposes is based on the official exchange rates given in the daily bulletin of the Bank of Greece. In no case are exchange rates in the free market applied.

Question 12.

In addition to ordinary customs duty, the following taxes are levied on the value of imported merchandise: (a) a business turnover tax based on wholesale prices in the internal market, (b) a luxury tax determined on the same basis as ordinary customs duty, and (c) a stamp tax levied on customs valuation plus customs duties.

Question 13.

No serious difficulties have been encountered so far.

Question raised in Document W.9/34

Valuation for customs purposes is based on the value of the merchandise actually imported.

H A I T I

Question 1. No

Question 2. No

Question 3. Yes

"For the purpose of levying ad valorem duties, the value of an article shall be deemed to be its wholesale price in the principal markets of the country from which it is imported ready for shipment, including the cost of packing, the freight and cost of transport to the port of shipment, the cost of cartage, the purchase commission, and the interest, if any. The export duties paid in the country of origin, plus the sea freight, insurance, consular duties, landing charges and all other costs of any nature whatsoever shall form part of the cost price of the goods to the importer." (Section 37 of the Law of 26 July 1926)

Question 4.

When ready for shipment.

Question 5.

Foreign country.

Question 6.

The export price actually paid in the exporting country.

Question 7.

The valuation is based on the actual quantity purchased.

Question 8.

In practice, valuation is based on the invoice. Exceptions only in case of fraud.

Question 9.

Only one method.

Question 10.

If the importer did not have to pay that tax, it is not added by the Customs Officer.

Haiti  
(continued)

Question 11.

"The conversion of foreign currency into Haitian currency shall be effected according to the current rate in the customs house on the day of taxation. The rates shall be established by the Chief Collector (Receveur Général) and notified to the collecting officers at least once a month, and shall be based on the average of the rates quoted the previous month by bankers established in the capital for the sale of foreign currency."  
(Section 38 of the Law of 26 July 1926)

Question 12.

We apply customs surtaxes. These taxes are based on the same valuation system as used for customs.

The internal taxes levied on certain goods (cigarettes, spirits, etc.), are calculated on the imported products in exactly the same way as on the internal products. They are not based on the value.

Question 13. ---

