

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

VAL./2/Rev.2/Add.1

21 April 1986

Special Distribution

Committee on Customs Valuation

Original: English

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Check-list of Issues

Addendum

REPUBLIC OF KOREA

At its meeting held on 5 May 1981, the Committee on Customs Valuation decided, inter alia, that Parties should reply in writing to the points contained in the revised check-list of issues relating to national legislation on customs valuation. At its meeting of 13 December 1985, the Committee agreed that questions 14 and 15 be added to the check-list.

The reply submitted by the delegation of the Republic of Korea is reproduced hereunder.

1. Questions concerning Article 1:

(a) Sales between related persons:

- (i) Are sales between related persons subject to special provisions?

Sales between related persons are prescribed in Article 9-3.2 of the Customs Law and Article 3-3 of the Presidential Decree.

- (ii) Is the fact of intercompany prices prima facie considered as grounds for regarding the respective prices as being influenced?

No. Even if the buyer and seller are related (including intercompany transactions), if the importer verifies that the declared value closely approximates a certain value which has been accepted as the customs value, the declared value shall be acceptable as customs value.

This is provided for in Article 3-4 of the Presidential Decree.

- (iii) What is the provision for giving the communication of the aforementioned grounds in writing if the importer so requests? (Article 1.2(a))

Miscellaneous Provisions of the Commissioner's Decree provide that if there is any difference between customs officials and the importer in determining the customs value, the Collector shall give the importer an opportunity to explain his opinion.

Also, Article 17 of the Presidential Decree on Civil Affairs Administration provides that all public servants are obligated to answer the importer's inquiry in writing within a definite period of time.

- (iv) How has Article 1.2(b) been implemented?

Article 3-4 of the Presidential Decree provides for the use of "test values".

- (b) Price of lost or damaged goods:

Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?

Article 3-8 of the Presidential Decree provides that the customs value of lost or damaged goods shall be successively determined under the provisions of Articles 2, 3, 5 and 7 of the Agreement.

2. How has the provision of Article 4 to allow the importer an option to reverse the order of application of Article 5 and 6 been implemented?

Article 9-6.1 of the Customs Law provides that the order of the application of deductive value or computed value can be reversed.

This provision, however, shall not be enforced until 6 January 1989 in Korea under the provisions of Article 21.2 of the Agreement.

3. How has Article 5.2 been implemented?

Article 9-6.2 of the Customs Law provides for it.

4. How has Article 6.2 been implemented?

There is no special provision to compel any non-resident to submit any kind of records or information.

See answer 2 above.

5. Questions concerning Article 7:

- (a) What provisions have been made for making value determinations pursuant to Article 7?

Article 9-8 of the Customs Law provides that if the customs value cannot be determined under the provisions of Articles 9-3 through 9-7, the customs value shall be determined by the Reasonable Means.

- (b) What is the provision for informing the importer of the customs value determined under Article 7?

See answer 1(a)(iii) above.

- (c) Are the prohibitions found in Article 7.2 delineated?

They are delineated in the Commissioner's Decree, (Determination of the Customs Value Based on Reasonable Means. 3.)

6. How have the options found in Article 8.2 been handled? In the case of f.o.b. application, are ex-factory prices also accepted?

Article 9-3.3.(6) of the Customs Law provides that the cost of transport, insurance and other expenses connected with transport shall be added to the price actually paid or payable for imported goods.

Article 9-12 of the Customs Law and Article 3 of the Presidential Decree provide the administrative guidelines which reflect the methods of computation.

7. Where is the rate of exchange published, as required by Article 9.1?

Article 9-13 of the Customs Law provides that the rate of exchange shall be published by the Commissioner.

8. What steps have been taken to ensure confidentiality, as required by Article 10?

There are no special provisions in the Customs Law and Decrees.

In Korea, however, all public servants are obligated under the provisions of Article 60 of the National Public Servant Law to refrain from publishing any secret he may have learned during his term of office.

9. Questions concerning Article 11:

- (a) What rights of appeal are open to the importer or any other person?

Article 38 of Customs Law stipulates the right of appeal first to customs authorities or the Customs Commissioner, and then to the National Tax Tribunal.

Anyone who does not agree with the decision reached by the National Tax Tribunal may take legal proceedings according to the provisions of the Administrative Litigation Procedure Act.

- (b) How is he to be informed of his right to further appeal?

The petitioner is notified of his right to further appeal by a written judgement as stipulated in Article 43-3 of the Customs Law.

10. Provide information on the publication, as required by Article 12, of:

- (a) (i) the relevant national laws;

The relevant national laws and regulations are published in the Korean Gazette.

- (ii) The regulations concerning the application of the agreement;

See answer 10(a)(i) above.

- (iii) The judicial decisions and administrative rulings of general application relating to the Agreement;

Such decisions or rulings are published by the relevant judicial body or administrative authorities.

They are publicly available.

- (iv) General or specific laws being referred to in the rules of implementation or application.

See answer 10(a)(i) above.

- (b) Is the publication of further rules anticipated? Which topics would they cover?

No publication is anticipated.

11. Questions concerning Article 13:

- (a) How is the obligation of Article 13 (last sentence) being dealt with in respective legislation?

Article 143 of the Customs Law provides for a withdrawal of goods declared for import from the storage place prior to permission.

- (b) Have additional explanations been laid down?

No.

12. Questions concerning Article 16:

- (a) Does the respective national legislation contain a provision requiring customs authorities to give an explanation in writing as to how the customs value was determined?

See answer 1(a)(iii) above.

- (b) Are there any further regulations concerning an above-mentioned request?

Yes. See Articles 38 and 43-3 of the Customs Law (VAL/1/Add.19/Suppl.1, page 2).

13. How have the Interpretative Notes of the Agreement been included?

The most significant Interpretative Notes of the Agreement have been included in the Customs Law, the Presidential Decree and the Commissioner's Decree.

Examples of these are:

- . Sequential application: Article 9-3 through 9-8 of the Customs Law.
- . Price actually paid or payable: Article 3 of the Presidential Decree.
- . Use of generally accepted accounting principles: Miscellaneous provisions of the Commissioner's Decree.

14. How have the provisions of the Decision of 26 April 1984 on the Treatment of Interest Charges in the Customs Value of Imported Goods (VAL/6/Rev.1) been implemented?

Article 3(4) of the Presidential Decree provides that in the event of payment after importation, such as under the terms of deferred payment imports, an interest charge shall not be included in the price actually paid or payable for the goods provided that interest on the deferred payment is clearly evidenced by a written contract or an invoice, etc.

15. For those countries applying paragraph 2 of the Decision of 24 September 1984 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment (VAL/8), how have the provisions of this paragraph been implemented?

Korea is applying paragraph 1 of the Decision of 24 September 1984.