

Committee on Customs Valuation

Original: English

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Checklist of Issues

Addendum

Zimbabwe

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 checklist 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 checklist.

The reply submitted by the delegation of Zimbabwe is reproduced hereunder.

1. Answer to question 1 concerning Article I

	Relevant Section of the Zimbabwe Customs and Excise Act.
1.(a)(i) NO	93(2)
(ii) NO	93(2)
(iii) There is no specific provision in legislation which deals with communication of grounds for considering that the relationship influenced the price. An administrative procedure which already exists provides for communication of such grounds to the importer in writing.	
(iv) The transaction value may be accepted where the buyer and seller are related, if, the importer proves to the satisfaction of the Director that the transaction value closely approximates to one of the following values :-	93(2)

- (i) the transaction value of identical or similar goods sold at or about the same time as the goods to be valued at comparable commercial and quantity levels to buyers in Zimbabwe who are not related; or
- (ii) the value, determined in terms of section ninety-six, of identical or similar goods imported into Zimbabwe at or about the same time as the goods to be valued.

However, Article I(2)(b)(iii) is not being implemented as Zimbabwe opted to delay its application for a period of three years from 1st January, 1988 in terms of Article 21 of the Agreement.

(b) YES

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"All goods reported under the provisions of this Part or shown on the bill of lading, manifest, consignment note, waybill or other document as having been consigned to Zimbabwe shall be deemed to have been imported unless it is proved to the satisfaction of the Director that they were not imported."

No duty is therefore due on goods shown to have been short-shipped or lost in transit before their arrival at the Zimbabwe border.

Damaged goods are valued at a normal price consistent with their damaged condition at the time of importation. Valuation is based on the damaged goods themselves rather than by means of deduction for the value of any commercial compensation granted.

2. Answer to Question 2 concerning Article 4

In terms of Article 21 of the Agreement Zimbabwe has deferred the application of Article 6 for three years. The question of allowing the importer an option to reverse the order of application of Articles 5 and 6 does not arise.

3. Answer to Question 3 concerning Article 5

Zimbabwe entered a reservation in terms of section 5 of the Protocol to the Agreement and applies Article 5.2 of the Agreement "in accordance with the provisions of the relevant note thereto whether or not the importer so requests."

96(4)

4. Answer to Question 4 concerning Article 6

Zimbabwe delayed the application of Article 6 for three years in terms of Article 21 of the Agreement.

5. Answer to Question 5 concerning Article 7

5(a) The provisions of Article 7 apply to Commercial goods only. Valuation of private imports is dealt with under special provisions in section 98.

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Zimbabwe, as a developing country heavily dependant on all sources of revenue, departed from the strict provisions of Article 7 in respect of non-merchandise private imports for personal or domestic use. If the Customs Value of private imports cannot be determined under the provisions of Article 1 to 5, Valuation will not be made in terms of Article 7 or Section 97 of the Zimbabwe Customs Act, but will be determined by the Director of Customs and Excise in terms of Section 98 using catalogues or any other information related to identical or similar goods imported from the same country.

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Zimbabwe's experience is that private individuals import goods of endless variety (like electrical household items - microwave ovens, colour televisions, video recorders, Hi fis, sewing machines, computers and other goods in short-supply in Zimbabwe) at costs which cannot easily be compared. There is no mechanism for maintenance of records for private imports and generally travellers do not produce invoices for private imports. It has also been found to be an area where falsification of documents can be solicited by importers. There would therefore be no basis for application of Article 7 of the Agreement as the country's taxable base may seriously be eroded.

Zimbabwe has not deviated from general principles of the Agreement when it decided to separate Commercial or merchandise goods from the privately imported goods for the importer's personal consumption. We just simplified what could be endless and un-economic arguments which could have resulted in loss to revenue.

5(b) There is an administrative measure for the information by the importer of the value determined under Article 7.

5(c) YES - These are published in Section 97(3) the Customs and Excise Act.

97(3)

6. Answer to Question 6 on Article 8.2

Zimbabwe provided for CIF Valuation to the Zimbabwe Border in Section 99(2)(a). Included in this is all loading, unloading and handling charges associated with the transport of the imported goods to the Zimbabwe Border.

99(2)(a)

There are however few exceptions to the above. Because of Zimbabwe's Geographical position, Air-freighting is very expensive, and in order to reduce the impact on certain commodities it was decided to deem fifteen percentum of the free on board value as the CIF Value for all Airfreighted goods. The 15% figure was arrived at after research by the Zimbabwe Reserve (Central) Bank into freight charges for most common items imported into Zimbabwe. This is the figure the Reserve Bank authorise payment for freight charges to Zimbabwe.

99(2)(a)(i)

If the 15% of the free on board value is higher than the total freight and insurance actually paid or payable, then the actual amount paid or payable shall be taken as the value for duty purposes and the 15% will be disregarded.

The following provisions were made to cater for situations where transport is provided free of charge or at reduced cost as a result of inter-company relationship.

"Where the goods to be valued were imported by means of transport, other than air transport, owned by the importer and there is no documentary evidence of the delivery costs from the place where the goods are loaded into the importer's means of transport, the combined cost of freight and insurance shall be deemed to be-

99(2)(a)(ii)

- (i) five per centum of free on board value of the goods, in addition to the proved sea, air or other freight charges from the country of original export, where applicable, when the goods were transported from Botswana, South Africa, Lesotho, Swaziland, Mozambique, Zambia, Namibia or Malawi;

- (ii) seven and one-half per-centum of the free on board value of the goods, in addition to to the proved sea, air or other freight charges from the country of original export, where applicable, when the goods were transported from any country in Africa other than a country referred to in subparagraph (i);"

The above percentages were arrived at after careful research in transport costs from neighbouring countries and therefore represent the correct charge if the owner's transport is used.

7. Answer to Question 7 on Article 9.1

The rate of exchange is published in local daily press and at all Custom Houses after consultation with the Reserve Bank of Zimbabwe.

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8. Answer to Question 8 on Article 10

A provision which prohibits unofficial disclosure of information acquired in the course of duties to any person firm or business already exists in the Customs and Excise Act [Chapter 177] and is reproduced hereunder :-

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"191. An officer who in the course of his duties has acquired any information relating to any person, firm or business shall not disclose such information, except -

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- (a) for the purposes of this Act or for the official compilation of statistics; or
- (b) when required or ordered to do so by a court; or
- (c) to the extent that it is necessary in order to give effect to any obligations of Zimbabwe in terms of any international convention, treaty or agreement; or
- (d) where in the opinion of the Director such information is or may be relevant to prove the commission of -
 - (i) an offence in terms of this Act or any other law; or
 - (ii) an act of misconduct by a person employed by the State."

9. Answer to Question 9 on Article 11

9(a) As an administrative measure, any person who is aggrieved by any decision of an officer will appeal to the Director of Customs and Excise, first. Section 100 E of the Customs and Excise Act provides for appeals against any value determination made by the Director of Customs and Excise to be made to the High Court of Zimbabwe.

100E

(b) On communication of a value determination, the importer will be advised in writing of his right to further appeal if he is aggrieved by the determination by the Director of Customs and Excise.

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10. Answer to Question 10 on Article 12

10(a)(i) The amendment to the Customs and Excise Act are passed by Parliament and gazetted in the Government Gazette which is available to anyone who needs it.

(ii) The Customs and Excise (General) Regulations are gazetted.

(iii) The Customs Valuation and Containerised Guide is not gazetted but is available at all Government Stationery Stores.

(iv) Not applicable.

(b) No.

11. Answer to Question 11 on Article 13

11(a) Section 39(i) of the Customs and Excise Act contains a proviso which allows an officer to release goods on payment of a deposit pending production of necessary documentation.

39(i)

(b) YES - in the Valuation Guide.

12. Answer to Question 12 on Article 16

12(a) There is no specific provision in our legislation requiring Customs Department to give a written explanation as to how the Customs Value was determined. However, as an administrative policy, this Department gives written replies to all written requests or enquiries made.

(b) No.

13. Answer to Question 13 on Interpretative Notes

Major provisions in the Interpretative Notes have been included in the Customs and Excise Act and the Customs and Excise (General) Regulations. Some are also included in the Customs Valuation and Containerisation Guide.

14. Answer to Question 14

Charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of the goods are not included in the value for duty purposes provided the conditions laid down in Decision 3.1 of the Compendium of Customs Valuation (GATT Agreement) are met.

15. Answer to Question 15

In determining the Customs Value of imported Carrier Media Bearing software for Data Processing Equipment both the cost or value of the carrier medium itself and the cost or value of the data or instructions (software) shall be taken into account.