

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

VAL/2/Rev.2/Add.2

2 December 1986

Special Distribution

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## Committee on Customs Valuation

### INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

#### Check-list of Issues

##### Addendum

##### LESOTHO

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 Lesotho is reproduced hereunder.

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#### 1. Questions concerning Article 1:

##### (a) Sales between related persons:

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

Yes, related persons are defined in Section 13(2)(c) of the Amendment Act No. 4 of 1983.

Every importer of goods which are not exempted by regulation, shall, when making entry of the goods, declare, in the manner prescribed by regulation, whether or not he is related to the supplier of the goods within the meaning of this section.

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

No. Section 13(3) of the Amendment Act clearly specifies that the fact that a buyer and a seller are related within the meaning of sub-section (2)(a) shall not in itself be a ground for not accepting the transaction value.

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

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Regulation 52(7)(b) requires the Director to give these grounds in writing when requested.

iv) How has Article 1.2(b) been Implemented?

a) Sections 13(3)(b) (i)(ii) and (iii) of the Amendment Act NO 4 of 1983 provide for the use of the "test values" provided for in Article 1.2(b). It is implemented on the basis of the interpretative notes.

b) Price of lost or damaged goods.

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

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The treatment of lost or damaged goods is not provided for in Valuation legislation. However special arrangements are provided for under Section 45(1) read with Regulation 11(7)(a); further arrangement has been made under Section 77(2)(d) where refund of duty can be effected.

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?  
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Section 13(6) of the Amendment Act NO 4 of 1983 empowers the importer to exercise this option.

3. How has Article 5.2 been implemented?

This Article is provided for in Section 13(7) b and (c) of the Amendment Act NO 4 of 1983.

4. How has Article 6.2 been implemented?

Not specifically mentioned but implied in the legislation, Section 13 (8) of Act NO 4 of 1983 introduces the concept that the transection value of any imported goods in terms of this subsection shall be based on a Computed Value computed by means of information supplied by the producer as Customs authorities in Lesotho have no jurisdiction over an exporter in a foreign country.

5. Question concerning Article 7:

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

Value determination is covered by Section 13(9) of the Amendment Act NO 4 of 1983 which authorizes the Director to determine customs values.

- b) What is the provision for informing the importer  
of the Customs value determined under Article 7?  
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Regulation 52 (7) b of Legal Notice NO 126 of 1984 has the reference that the Director shall, on request, advise the importer in writing of the method used in determining the Customs Value of his goods provided such request is received within thirty days from the date of such determination.

c) Are the prohibitions found in Article 7.2 delineated?

Yes the prohibitions have been delineated under Section 13(9) of Amendment Act NO 4 of 1983.

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?

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F.O.B. is applied in Lesotho. Ex factory prices are also accepted. Section 14(2) of the Amendment Act NO 4 of 1983 has reference.

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

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Section 74 of the Act NO 10 of 1982 read with Regulation 51 (1) and (2) provide for the publications on currency conversion.

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

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Section 5(3) of Act NO 10 of 1982 ensures confidentiality, as required by Article 10.

9. Questions concerning Article 11:

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

Section 12(g) of the Amendment Act NG 4 of 1983  
provides for the right of appeal.

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

It is a normal administrative practice to advise an  
importer who has a dispute with Customs of his right  
of appeal.

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

- (a) i) The relevant Customs laws. Photocopies of  
the relevant legislation are attached.<sup>1</sup>

- ii) The regulations concerning the application  
of the Agreement-----

In Lesotho publication of Legislation in the  
Government Gazette is regarded as proper  
notification to the subject and binds him  
from the effective date.

- iii) The Judicial decisions and administrative  
rulings of general application relating to  
the Agreement-----

Administrative rulings of general application  
are made known by way of Government notices.

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<sup>1</sup>Reproduced in document VAL/1/Add.21

iv) General or specific laws being referred to  
in the rules of implementation or application.  
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Please refer to answers to 10(a)(i) and  
10(a)(ii) above.

b) Is the publication of further rules anticipated?  
which topics would they cover?  
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Only as advised by GATT.

11. Questions concerning Article 13

a) How is the obligation of Article 13(last sentence)  
being dealt with in the respective Legislation?  
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Section 107 (2)(a) of the Act provides for release  
of goods from Customs Control on lodgement of  
suitable security.

b) Have additional explanations been laid down?  
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Additional explanations are incorporated in the  
Guide to Customs Valuation.

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?  
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Yes, in Customs and Excise REgulation 52(7)(b)  
of 1984 under Legal Notice NO 126 of 1984.

- b) Are there any further regulations concerning  
an above mentioned request?  
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See 5(b) above.

13. How have the interpretative Notes of the Agreement  
been included?  
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Section 17 of the amendment Act NO 4 of 1983 has reference.

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?  
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Section 14 (2)(b)(vi) of the Amendment Act NO 4 of 1983  
excludes these.

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?  
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NOT Applicable.