



Brussels, 20 October 2016.

DRAFT REPORT TO THE CUSTOMS CO-OPERATION COUNCIL ON  
THE 43<sup>rd</sup> SESSION OF THE TECHNICAL COMMITTEE ON CUSTOMS VALUATION

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*Opening remarks*

1. The Technical Committee on Customs Valuation (“Technical Committee”) held its 43<sup>rd</sup> Session at the Headquarters of the World Customs Organization (“WCO”), in Brussels from 17 to 20 October 2016. The Session was chaired by Ms. Y. GULIS (United States) who extended a warm welcome to all delegates, especially those attending the Technical Committee for the first time.
2. Mr. Ping LIU, Director, Tariff and Trade Affairs Directorate, also welcomed the delegates and observers present.
3. The Director briefly mentioned, in his opening remarks, the topics and reports that that the Technical Committee would have the opportunity to consider at this Session. He highlighted two major events that occurred since the last Session. The first one being the holding of the WCO Policy Commission and Council Sessions in the month of July. The second is the G20 Leaders Communique of Hangzhou Summit of September welcoming the

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cooperation with the WCO for a study report in regard to trade misinvoicing in the context of illicit financial flows.

4. He wished the Technical Committee a productive and successful meeting.

**Agenda Item I :**                    **ADOPTION OF AGENDA**

- (a) Draft Agenda

Doc. VT1052E1c

5. The Chairperson summarized the provisional Agenda contained in Doc. VT1052E1c and informed the Technical Committee of an additional item (d) to Agenda item VII to include a presentation by the Secretariat on the Clikc Platform which will shortly replace the Club de la Réforme platform, presently used for informal discussion on Customs valuation technical questions. She invited the Technical Committee to comment and asked Members whether they wished to raise additional items under Agenda Item VII, Other business.

Discussion

6. One delegate asked whether it would be possible to create a fund to finance the attendance of technical experts from developing Member countries which have been affected by natural disasters to attend the Technical Committee. The Director responded that the WCO has been concerned with the problems that Members face following natural disasters. However, although the WCO can play a role in disaster relief there is no present policy for the creation of a fund to finance attendance of Members to WCO committees.

Conclusion

7. The Agenda was adopted as proposed in Doc. VT1052E1c with the addition of the Secretariat presentation on the Clikc platform.

- (b) Suggested programme

Doc. VT1053E1a

8. The Chairperson referred to Doc. VT1053E1a which set out the suggested programme of work for the 43<sup>rd</sup> Session prepared by the Secretariat.
9. The Chairperson informed the delegates that the Observer of the OECD would be attending the Technical Committee only on Tuesday 18 October and thus the proposal to deal with the Case Study on Related Party Transactions under the Agreement and Transfer Pricing – case based on the Resale Price Method – on that day.
10. The presentation by the Secretariat on the Clicc Platform following the amendment in the Agenda was scheduled for Thursday.
11. There was no comment on the suggested programme.

#### Conclusion

12. The Technical Committee agreed to maintain the suggested programme as set out in Doc. VT1053E1a.

#### **Agenda Item II : ADOPTION OF THE TECHNICAL COMMITTEE'S 42<sup>nd</sup> SESSION REPORT**

Doc. VT1051E1c

13. The Chairperson drew attention to the changes made to the reporting procedure as adopted at the 42<sup>nd</sup> Session. Accordingly, the Secretariat would prepare a draft report which would be circulated to delegates (the 'a' version). Comments received from Delegates would then be published in the 'b' version of the report. If no comments/objections are received on the comments the report would be deemed to have been approved. Only those comments/objections made by delegates to the comments on the 'b' version of the report which cannot be resolved would be raised for discussion by the Chairperson at the subsequent Session.
14. The Chairperson highlighted the comments raised on the 42<sup>nd</sup> Session draft Report (revised) which related to Paragraph 150B (by Uruguay) and Annex D (China). After hearing the reason for its proposal and ensuing discussion by the Technical Committee, Uruguay proposed to shorten the sentence to be added to paragraph 150B to – 'This view was not shared by various delegations.' – which was accepted by the Technical Committee. China

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also agreed to keep the original version of the Information Document in Annex D to the Draft Report with respect to the part on 'the Views of countries supporting Opinion 2'.

### Conclusion

15. The Technical Committee approved the 42<sup>nd</sup> Report with the above amendments.

### **Agenda Item III : REPORTS ON INTERSESSIONAL DEVELOPMENTS**

#### (a) Director's Report

Doc. VT1054E1a

16. The Chairperson invited the Director to present the Director's Report, contained in Doc. VT1023E1a. He summarized and expanded on the key intersessional activities detailed in the document.
17. The Director updated the Technical Committee summarizing the developments included in the working document. He highlighted relevant issues emerging from the recent Policy Commission and Council Sessions. The Policy Commission endorsed the Revenue Package Phase III Action Plan which would be reported under Agenda Item IV(c) and decided that the current Publications policy would remain so that certain publications would be available only through purchase at the WCO Bookshop. The Council approved the new Case Study 14.1 finalized by the Technical Committee at its 42<sup>nd</sup> Session and took note of other activities.
18. The Council Chairperson suggested that the various WCO committees consider limiting the duration of discussions on technical questions for greater efficiency. The Director invited the Technical Committee's views on this suggestion.
19. In the context of the recent G20 Communiqué, the Director noted that the WCO welcomed the opportunity to prepare a study report on the topic of trade misinvoicing (see paragraph 36 of the Communiqué) which will be discussed at the forthcoming Policy Commission. The matter is relevant to the Technical Committee as it concerns both under and over-invoicing. This will be discussed further under Agenda Item VII (a).

20. A new WCO working Group on e-commerce met for the first time recently. A range of issues were discussed; of interest to the Technical Committee were new revenue collection models which will allow all revenues and taxes to be collected more efficiently will be explored and the application of de minimus limits.
21. The Director drew attention to the response from the World Trade Organization (WTO) on the question of voting by the Technical Committee, as set out in Annex II of the WTO Valuation Agreement. The WTO's advice had been sought following questions raised by delegates at the last Session. The response acknowledges the procedures outlined in Annex II and observes that the practice for the Technical Committee has been to follow the consensus procedure, as applied by other WTO bodies. The Technical Committee's views on this are welcomed.
22. In addition to the events attended by the Secretariat listed in paragraphs 26 to 29 of Doc. VT1054E1a, the Director advised that the Secretariat has also attended the Twelfth Session of the United Nations Committee of Experts on International Cooperation in Tax Matters from 11 to 14 October 2016 in Geneva.
23. Delegates were also encouraged to ensure the valuation Contact Point lists and Index of Reference Materials were up to date and to advise the Secretariat accordingly of any updates.

#### Discussion

24. The Delegate of the United States announced that the Customs and Border Protection (CBP) Customs Valuation Encyclopedia had been updated and is available via the CBP website. It contains all valuation rulings and court decisions between 1980 and 2015. The Chairperson suggested that the Index of Reference Materials be updated to reflect this information.
25. A delegate thanked the Director for the useful information provided in his Report; adding that the summary of the Working Group on e-commerce was particularly useful. He noted his delegation's disappointment that valuation-related texts adopted by the Technical Committee would continue to be charged for. Regarding the G20 Communiqué, he considered it was not yet clear the extent to which the Technical Committee can provide input to this work.

26. The delegate requested feedback from the Secretariat on the various public and private sector events it had attended to understand the main topics and themes under discussion. He considered that the suggestion from the Chairperson of the Council regarding the duration of technical questions was rather an informal proposal and did not require substantial consideration. He welcomed the WTO response regarding the question of voting and said his delegation would reflect further on this.
27. One delegate considered that, following the response from the WTO on the question of voting, the Technical Committee need to consider what should happen when there was no consensus.
28. Another delegate considered that in some cases it can be justifiable to discuss questions for a longer period. However, where it becomes clear that consensus could not be reached, discussions should not be prolonged.
29. In response to questions about public and private sector events attended by the Secretariat, it was clarified that all the events reported in Doc. VT1054E1a (paragraphs 26 to 29) related to transfer pricing. In each case, the Secretariat had taken the opportunity to highlight and promote the relevant work of the Secretariat (e.g. the Guide to Customs Valuation and Transfer Pricing) and the Technical Committee output (e.g. Commentary 23.1 and Case Study 14.1). While agreeing that the Technical Committee has the right to be informed about relevant Secretariat activities, the Director added that the Secretariat did not need to consult with the Technical Committee in terms of its engagement with stakeholders, given that this is within its mandate under the WCO Strategic Plan and that the Secretariat does not speak on behalf of the Technical Committee in this regard.
30. In response to a question on the scope of the study report on the topic of trade misinvoicing, the Director clarified that the Secretariat's response to the G20 Communiqué would be a cross-Directorate activity as it involved a variety of activities. Finally, he thanked the United States for the information on the updated Valuation Encyclopedia, noting that this publication had been a very useful reference point in the past.

### Conclusion

31. The Technical Committee took note of the Director's Report and ensuing discussions.

(b) WTO Committee on Customs Valuation Report

32. The Observer for the World Trade Organization (WTO) reported on the activities of the Committee on Customs Valuation (CCV) since its last session held on 25 April 2016. She updated the Technical Committee on several issues related to the activities of the Committee, in particular : 1) the status of notifications; 2) the examination of national legislations; 3) notification of the checklist of issues; 4) Information on the application of the Committee Decisions; 5) Technical assistance; 6) Pre-shipment Inspection; and 7) election of a Chairperson to the CCV.
33. She reported that to date, 96 Members have notified their national legislation on Customs valuation and 36 Members have not yet submitted a copy of their national legislation. Additionally, she added that 65 Members have provided responses to the checklist of issues and, during the reporting period, one communication was received from Kazakhstan. However, 41 Members have not yet submitted answers to the Checklist of Issues and she asked for the contribution of Delegates to assist in this matter.
34. The CCV also received one notification from Kazakhstan with respect to the application of the Committee's Decisions on the Treatment of Interest Charges and on Valuation of Carrier Media Bearing Software for Data Processing Equipment. The CCV is continuing its discussions to update the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment.
35. The CCV is also discussing trade concerns on the alleged use of reference prices and minimum values.
36. In terms of technical assistance provided by the WTO, she stated that training on Customs valuation was included in the WTO Regional Trade Policy Courses for English-speaking Africa; French-speaking Africa; Asia; the Caribbean and, Latin America. It was also included in the three Advanced Trade Policy Courses held at the WTO.
37. Finally, Dr Yasswer Korani from Egypt was elected as Chairperson of the CCV by acclamation.
38. Full details of the WTO report can be found at Annex C to this Report. The next meeting of the CCV is scheduled for 31<sup>st</sup> October 2016.

Discussion

39. The Delegate from Pakistan enquired about Member countries which have not yet submitted their national laws to the WTO Committee on Customs Valuation (CCV) for review and also asked the Observer whether it would be possible to highlight a few common issues being faced by developing countries so as to share its comments and views. In response, a list of Members which have not yet submitted their national laws was compiled and distributed to the delegates and the Observer for the WTO proposed to meet the Delegate on a bilateral basis to discuss further the second part of his question.
40. The Delegate of Uruguay thanked the WTO for correcting the error which occurred in the Spanish version of its request to amend Article 8.1 (b) (iv) of the WTO Valuation Agreement and hoped that its request to amend Decision 4.1 of the CCV on the valuation of carrier media bearing software would be resolved. The Observer also advised that work has been started at the WTO Secretariat to assess the impact of the WTO Agreement on Trade Facilitation on the Customs Valuation Agreement and vice-versa though it has not been assigned with this task by the CCV.

Conclusion

41. The Technical Committee took note of the WTO oral report and subsequent discussions and thanked the Observer for the update provided to the Technical Committee.

**Agenda Item IV :**                    **TECHNICAL ASSISTANCE, CAPACITY BUILDING AND CURRENT ISSUES**

- (a) Report on the technical assistance/capacity building activities undertaken by the Secretariat and Members

Docs. VT1055E1a and VT1066E1a

Background

42. Acting on the decision of the Technical Committee, the Secretariat had monitored the technical assistance/capacity building activities scheduled and/or delivered by Members and



had forwarded the results to all Members, to help them with their planning and to prevent duplication of effort.

43. Since the last session, the Canadian, Chinese, Japanese and United States Customs Administrations had provided information about their technical assistance activities. That information, together with information on the technical assistance/capacity building activities undertaken by the Secretariat, was set out in Annexes I and II respectively to Doc. VT1066E1a.

#### Summary of discussion

44. The Secretariat provided the Technical Committee with information on its technical assistance and capacity building activities scheduled for the period from November 2016 to March 2017, as follows :
- a diagnostic mission on the valuation control system would be carried out for Burkina Faso's Directorate General of Customs;
  - a joint WTO-WCO mission on Customs valuation would be conducted for the Customs Administration of Saint Vincent and the Grenadines;
  - a joint WCO-OECD Workshop on Customs Valuation and Transfer Pricing would be held for Members of the WCO's West and Central Africa (WCA) region; and
  - a workshop on Customs Valuation and Transfer Pricing would be held for Members of the East and Southern Africa (ESA) region.
45. The Secretariat indicated that it had already successfully completed several diagnostic missions on the valuation control system for some Member Customs administrations. During these missions, the Secretariat experts used diagnostic tools developed under Phase II of the WCO Revenue Package programme. These diagnostic tools enabled them to complete their review of the following specific areas : legislative and regulatory basis for Customs valuation, Customs valuation infrastructure, Customs valuation controls, Customs valuation risk management, trade facilitation and relationships with the private sector, and staff training policy with respect to Customs valuation. The mission team identified the strengths and weaknesses in each of the areas considered, suggesting solutions and options for improving the situation.

46. The Customs administrations having received this technical assistance from the Secretariat pointed out that the assessment of specific needs in the areas under review and the appropriate recommendations arising from it promoted the implementation of existing Customs reform programmes or, where appropriate, fostered new reforms to bolster their systems for the valuation control of imported goods.

#### Conclusion

47. The Technical Committee took note of the report on technical assistance activities as well as of the other information supplied by the Secretariat.

(b) Progress report on developing countries' application of the WTO Valuation Agreement

Doc. VT1056E1a

#### Background

48. In pursuance of a decision taken by the Technical Committee, the Secretariat had monitored progress with the application of the WTO Valuation Agreement by various Members and had published status reports on the subject.
49. In advance of the session, the Secretariat had issued Doc. VT1056E1a asking Customs administrations to provide information on the progress made in their countries with regard to the application of the WTO Valuation Agreement.
50. No Members had sent written comments in response to Doc. VT1056E1a during the intersession.
51. Cameroon offered to give a presentation on : "Cameroon's experience of the implementation of the WTO Agreement on Customs Valuation".

#### Presentation by Cameroon

52. The Delegate shared his Administration's experience regarding the implementation and application of the WTO Agreement on Customs Valuation.

53. In his presentation the Delegate described, in turn, the legislative and regulatory framework for Customs valuation in Cameroon, the administrative and organizational infrastructure, including relations with the pre-shipment inspection company, the chain of control of Customs valuation and the difficulties encountered, and finally, the legislative and regulatory framework for the settlement of disputes.
54. He informed the Technical Committee that his country, Cameroon, had been a WTO Member since 13 December 1995. At the regional level, Cameroon was a member of CEMAC (Economic and Monetary Community of Central Africa), an economic and monetary union, along with five other States, i.e., Republic of the Congo, Gabon, Equatorial Guinea, Central African Republic and Chad. As a member, Cameroon applied the WTO Valuation Agreement, the relevant provisions of which were enshrined in a Community text - namely Act 2/98-UDEAC-603-CD-60 of 21 January 1998 on the regulation of Customs valuation in the CEMAC zone. Other national texts, including in particular Finance Law 2001-2002 on the implementation of transaction value in Cameroon, and Finance Law 2003-2004 specifying the conditions of eligibility of importers for application of the first method of valuation under the WTO Agreement, completed this set of legislative and regulatory provisions governing Customs valuation in Cameroon.
55. The delegate said that his Customs administration was experiencing difficulties with the implementation of the Agreement, which were attributable essentially to : lack of the appropriate infrastructure for valuation control; absence of a central database, this being a necessary component of its valuation control system which should serve as a risk management tool, guarantee uniform application of Customs valuation at the national level, and help to combat the under-valuation of goods; the preponderance of the informal sector; the absence of in-service training on Customs valuation for staff; the absence of structured relationships between the central services on the one hand, and between the central and operational services on the other; and the failure of the various actors to take ownership of the control procedure established by Decision 6.1 of the WTO Committee on Customs Valuation.
56. He explained that recourse to a pre-shipment inspection company had not been sufficiently effective in terms of securing Customs revenues, in that the percentage of goods to be inspected pre-shipment (i.e., goods with an f.o.b. value equal to or in excess of 2 000 000 FCFA) was very low, and moreover, some of the Attestations of Verification of

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Imports (AVIs) issued by the pre-shipment inspection company were contested by Cameroon's Customs inspection service, which sometimes corrected them.

57. Finally, the Delegate informed the Technical Committee that his Customs administration had introduced an appeals procedure which was governed by Article 130 of the CEMAC Customs Code. Under that procedure, if the importer or his representative contested the value determined by a Customs service, the dispute was referred to the administrative superior or the Director General of Customs. If the importer or his representative continued to dispute the Customs' assessment, the aforementioned Article 130 provided for three successive levels of appeal, i.e., to the Appeal Committee (Mixed Commission), to the CEMAC Council of Ministers, and - the final resort - to the national courts.
58. Certain delegates requested, and received, additional details about : the operation of the Mixed Commission established by Ministerial Decision No. 071/CFMINEFI/DD of 30 December 1999 to resolve Customs disputes; the eligibility criteria to be met by private firms for application of the transaction valuation method; and the Customs-Business Forum providing the framework for dialogue between the Customs administration and foreign trade operators, particularly importers, exporters and industrialists.
59. The Delegate of Pakistan shared his country's experience of the electronic exchange of valuation-related information with an exporting country.
60. For further information, delegates are invited to view this presentation, which is available on the WCO Members' web site.

### Conclusion

61. The Technical Committee took note of the progress made with regard to the application of the WTO Valuation Agreement, and of the useful information provided in the presentation given by Cameroon.

(c) Revenue Package Phase III

Doc. VT1057E1a

62. The Chairperson gave the floor to the Secretariat who provided background to the Revenue Package programme and the tools developed thus far. Details were then provided on the Phase III Action Plan which had been endorsed by the Policy Commission and approved by the Council in July 2016.
63. Phase III includes two parts; Part 1 focuses on providing support to Members in application of tools developed under Phases I and II. Part 2 includes a number of new items, such as Customs –Tax cooperation.
64. Activities of relevance to Customs valuation were highlighted such as the ongoing work to assist Members in strengthening their valuation infrastructure, based on the Revenue Package diagnostic tool. Members are invited to share national practices in areas such as the use of a valuation database as a risk assessment tool and the termination of private sector inspection contracts, to supplement the existing materials.

Discussion

65. One delegate encouraged the Secretariat to discuss key issues, such as the proposed work on transfer pricing, with Members. In particular, he suggested that a higher level approach, involving the Technical Committee, was adopted to the BEPS issue in terms of making progress, developing guidance etc.

Conclusion

66. The Technical Committee took note of the Secretariat's update on the Revenue Package programme and the ensuing discussion.

**Agenda Item V :            SPECIFIC TECHNICAL QUESTIONS**

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- (a) Related party transactions under the Agreement and Transfer Pricing – case based on resale price method – submitted by China

Docs VT1058E1a and VT1068E1a

Background

67. The Chairperson introduced the case which had been submitted by China at the 38<sup>th</sup> Session and is designed to provide guidance in a case where Customs are examining a related party transaction and has been provided with information derived from a transfer pricing study based on the resale price method. The latest draft of the case is reproduced in the Annex to Doc. VT1058E1a. Written comments from China and Uruguay are reproduced in Annexes I and II of the document. The OECD had provided an example relevant to this case which is reproduced in the working document. The Chairperson reminded the Technical Committee that it had agreed to first focus on the question of whether or not the price has been influenced by the relationship in this case. Once decided, it would then consider whether or not to examine which valuation method should apply.

Discussion

68. The Delegate of China explained the background to the changes made to the draft text since the last Session which took into account various comments made by Members. He considered that the wording which referred to the 'popularity' of the bags could be changed or deleted, based on delegates' suggestions. Some structural changes had also been made. He acknowledged that it could be made more clear that the high gross margin was due to the efforts of the exporter, not the importer.
69. The Observer of the OECD explained that the objective of the example provided was to show that the importer was a routine distributor that did not control the risks associated with fluctuations in popularity which affected the profitability of the bags, such as the risk related to the price at which the bags could be sold. It seemed that in this case it was the exporter who made such decisions. The example provided illustrated that the importer merely followed the policy established by its related party (the exporter).
70. A delegate considered that the OECD example was highly relevant and that the text could be modified to reflect the key points from the example. The Delegate of China agreed

that the OECD example could better illustrate the point he wished to make and the document could be amended accordingly.

71. After further discussion, the Chairperson noted that the Technical Committee had reached consensus on the conclusion, namely that in this particular case the price was influenced by the relationship between buyer and seller. One delegate commented that the facts led to the specific conclusion that the price is influenced *at the time of importation*. It was agreed that a footnote would be included to indicate that normally an adjustment would occur in this situation.
72. One delegate favoured development of a general document which could be complimentary to discussion of specific cases, in order to provide an overview of the whole issue.
73. The Technical Committee then conducted a paragraph by paragraph examination and agreed on a number of drafting changes. In some cases, where agreement could not be reached, the text remains in square brackets.
74. Regarding the text in paragraphs 18 to 20, analyzing which alternative method should be applied in this case, China indicated a preference to retain this text and suggested that rather than making a decision at this stage, the Technical Committee reflect on this aspect during the intersession.

#### Conclusion

75. The Technical Committee agreed that the Secretariat would work with China to further develop the text of this case, taking into account discussions during the Session. Informal discussions can also take place during the intersession with a view to concluding the document at the next Session.

(b) Condition of sales, objective and quantifiable data-: Request submitted by Mexico

Docs. VT1059E1a and VT1069E1a

#### Background

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76. The Chairperson summarised the work carried out by the Technical Committee on the question submitted by Mexico since the 40<sup>th</sup> Session to date.
77. The issue in this question is whether the royalties paid under the Franchise Agreement between the parties should be added to the price actually paid or payable under Article 8.1(c). If it is determined that the royalties are to be added to the price actually paid or payable under Article 8.1 (c), then the Committee would consider whether objective and quantifiable data are available to make the addition.
78. It was noted that the royalties were calculated on the importer's gross sales of the finished product that are paid to the franchisor.
79. During the intersession preceding the 43<sup>rd</sup> Session, Mexico provided further information in writing to Members' comments made at the 42<sup>nd</sup> Session, which were reproduced in Doc. VT1059E1a.
80. Members were invited to examine these new elements and to submit their comments to the Secretariat. Comments were received from China and the United States and have been reproduced in Doc. VT1069E1a.

#### Discussion

81. The Delegate of Mexico remarked that the working document now contains all the information required for its examination.
82. In response to the written comments, he explained that the imported inputs do not incorporate intellectual property but they are manufactured using the intellectual property of the franchisor (know-how). He further added that though the imported inputs are not patented and can be obtained from other suppliers authorised by the franchisor, the royalty payment is a condition of the sale as the franchisee is obliged to acquire them from the franchisor or any authorised person. After the inputs have been imported, they are incorporated in the finished goods manufactured in the country of import that give rise to the royalty payment. He found no inconsistency in paragraphs 3, 4 and 6 of the draft case study.
83. With respect to the comments from the United States, the Delegate explained that the franchise agreement covers various royalty payments. Those indicated in clauses 5.1 and 5.2 of the franchise agreement relate to the operation of the stores and to the business "know-how" and the one mentioned in clause 5.3 relates to the sale of products bearing the intellectual property (brand) of the Franchisor.



84. Several delegates opined that, according to the facts presented by Mexico, the royalty payments were not made for the intellectual property protection of the imported goods, but for the use of the brand and system, the operation of the store and the know-how of the manufacturing process. One delegate also observed that Advisory Opinion 4.5 could be applied in this draft case study.

### Conclusion

85. The Technical Committee reached consensus on the conclusion that the royalty payments are not to be added to the price actually paid or payable for the imported inputs and that there is no need to examine the second issue raised in the draft case study i.e. whether objective and quantifiable data are available to make the addition.
86. The Technical Committee invited Mexico to work with the Secretariat to determine the appropriate instrument to address the question and to draft the instrument during the intersession for consideration by the Technical Committee at its next Session.

(c) Examining the circumstances surrounding the sale under the provisions of Article 1.2 (a) – goods produced in different countries : Submitted by Ecuador

Docs. VT1060E1a and VT1070E1a

### Background

87. The Chairperson reminded the Technical Committee that it started the examination of this question from Ecuador at the 42<sup>nd</sup> Session.
88. In this draft case study, in order to demonstrate that the relationship has not influenced the price, the importer provided Customs with a transfer pricing study prepared on the basis of the Comparable Uncontrolled Price method (CUP) of the OECD Guide to Transfer Pricing.
89. The only comparable uncontrollable transaction available to the importer involved goods which were neither produced in the same country of export nor imported into the same country as the goods being valued.

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90. The issues raised by Ecuador are whether, in the examination of the circumstances surrounding the sale between related parties, to determine whether the relationship has influenced the price in the context of Article 1.2 (a) of the Agreement and its Interpretative Note :
- (i) goods originating from a country other than that of the goods under review are applicable;
  - (ii) prices of identical or similar goods sold for export to a country other than the country of importation can be used; and
  - (iii) appropriate adjustments can be made in a reliable manner.
91. During the examination of this question at the 42<sup>nd</sup> Session, Delegates highlighted the lack of precision in the question and made some drafting suggestions. Subsequently, a revised draft case study submitted by Ecuador was published in Doc. VT1060E1a which Members were invited to examine and provide comments.
92. Written comments received from Chile, China and the United States during the intersession were reproduced in the annexes to Doc. VT1070E1a.
93. The Secretariat had received a revised restructured draft case study from Ecuador just before the start of the 43<sup>rd</sup> Session which was circulated as a non-paper. The revised document structured in five parts including an introduction, facts of transaction, issue for determination, analysis and a conclusion.

#### Discussion

94. The delegate of Ecuador affirmed that the new version of the draft case study circulated as a non-paper has taken into consideration the written comments made by Chile, China and the United States. She invited more comments from the Technical Committee to further improve the document.
95. In response to the issue for determination, the Chairperson remarked that the scope of Article 1.2(a) of the Agreement is appropriate for the analysis of this case study.
96. One delegate suggested that the analysis should focus on Article 1.2(a) as the transfer pricing study which was introduced provided information regarding an unrelated transaction to determine whether the price has been influenced by the relationship. She preferred to analyse the case study as an example where the buyer and the seller, although related buy and sell to each other as if they were unrelated rather than under the example of

the price being set according to the normal pricing practices of the coffee industry as the industry practice cannot be represented by one single comparable transaction. Referring to the written comments by China, she expressed the view that the “test values” method does not apply in this case since the “test values” are to be used only at the initiative of the importer. Regarding the comments by Ecuador on the application of Article 7.2, she remarked that the flexible application of valuation methods only applies to Article 7.

97. Another delegate observed that the new document seemed to provide clear information that coffee beans are a basic commodity traded globally and for which there is a commodity exchange price. He asked whether in this circumstance it makes sense to look at this case in terms of whether the relationship has influenced the price and whether it matters if the CUP method is used or not. This view was shared by other delegates.
98. A third delegate wanted to know what features are considered when determining comparable transactions in the example in paragraph 2.18 of Chapter 2 of the OECD Transfer Pricing Guidelines.
99. The Observer of the OECD explained that when looking at potential comparables it does not matter which methodology is used. There are five factors that are considered to determine comparability, depending on the facts and circumstances, including the methodology used. The CUP method is considered the most direct way of determining the transfer price as the price is directly compared rather than the margin. One important factor to consider when applying the CUP method is the similarity of characteristics of the goods and services concerned. However, other factors including economic circumstances, geography, business strategies, contract terms and risks need to be considered. In this draft case study, the Observer noted that the goods concerned is a generic unbranded coffee sold on the commodity exchange with no intangible attached to it. Also, geography has no incidence on the price and the product is comparable. She supported this with the example of the price of gold which is transacted on a liquid commodity market and said that it does not matter which particular country the gold originates from.
100. In response to a question whether, for transfer pricing purposes, a transfer pricing study based on only one comparable transaction would be persuasive, the Observer responded that it would be difficult to rely on such a study and therefore necessary to seek more evidence, though it would be no reason not to accept it if an ideal comparable is found.

101. One delegate commented that the non-paper, though it has been restructured, is not different in substance from the previous draft case study annexed in Doc. VT1060E1a. He added that, for Customs valuation purposes, the provisions of the Agreement have to be applied and it would be against the provisions of Article 15 to say that the goods are identical or similar even if they are not produced in the same country as the goods being valued, as this Article provides that goods shall not be regarded as "identical" or "similar" goods unless they were produced in the same country as the goods being valued. He continued by saying that it would be inappropriate to use the example in paragraph 3(a) of the Note to Article 7 in the examination of this draft case study as this case is being examined under the provisions of Article 1.2(a) which, in his view, cannot be flexibly interpreted to say that the goods are identical or similar. Regarding the comments on the use of "test values" at the initiative of the importer, he drew the Technical Committee's attention to paragraph 4 of the Interpretative Note to Article 1.2 which states that if the Customs Administration already has sufficient information, there is no reason for it to require the importer to demonstrate that the test can be met.

102. One delegate made reference to paragraph 6 of Commentary 1.1 which explains how the principles of Article 15 should be applied. He questioned why the Transfer Pricing study had to be examined if the price of the goods was quoted at international commodity market according to the normal pricing practices of the industry.

103. Several delegates supported the idea of examining the issues according to the provisions of the Agreement without referring to the transfer pricing study.

104. The Observer from the ICC proposed that the Technical Committee considers keeping the reference to the OECD Guidelines in the case study and deal with the question without using this reference, as the issue could be resolved by applying the Agreement.

#### Conclusion

105. The Technical Committee decided to continue to examine the issue at its next Session. Ecuador agreed to work with the Secretariat to revise the text, taking into consideration comments and suggestions from delegates, and update the document accordingly.

(d) International Marketing Fee : submitted by Colombia

## Docs. VT1061E1a and VT1071E1a

Background

106. The Chairperson introduced the issue under consideration, concerning the International Marketing Fee (IMF). She referred to working document VT1061E1a which contained the improved version of the text submitted by Colombia for the Technical Committee's consideration, and which invited Members to submit their written comments to the Secretariat. She said that in response to the aforementioned document, the Administrations of Canada, Chile, and Uruguay had submitted written comments during the intersession, and these were set out in Annexes I to III to Doc. VT1071E1a. Colombia had sent a new text of its question, which was set out in Annex IV to the same document. Finally she explained that in response to the written comments by China, prior to the session Colombia had submitted further clarifications which had been circulated to delegates during the Session, as a non-paper.
107. The Delegate of Colombia summarized the question raised by her Customs administration, as presented in the text set out in the Annex to Doc. VT1061E1a. She provided the following clarifications, which were contained in the aforementioned non-paper :
- This case relates solely to “finished products” sold by the licensor or its subsidiaries to the licensee/buyer and imported by the latter in accordance with the licence agreement. These products must therefore be regarded as “finished products imported under licence”.
  - “Authorized products” are products which the licensee is authorized by the licensor to manufacture under the terms of the licence agreement; however, the case submitted by Colombia does not concern these products.
  - The payment of 4 % of net sales is indeed related to the imported goods and is a condition of the sale, firstly because it is calculated on net sales of the imported licensed products, and secondly because non-payment is grounds for termination of the agreement, and this is consistent with Commentary 25.1.
  - The payment of 4 % of net sales is not related to trade in services, but constitutes a payment that the buyer must make to the seller as remuneration for the “marketing benefits” obtained by the buyer under the licence agreement.

- The licensor is not obliged to provide the licensee with any details of actual activities carried out, or planned expenditure for performing such activities.
- With regard to paragraph 4 of Annex III to Doc. VT1071E1a, Colombia considers that the payment at issue could be regarded either : as an adjustment to the price paid or payable under Article 8.1 (d) of the Agreement, because it is a part of the proceeds of the resale of the imported goods to be valued which accrues to the seller; or as increasing the price paid or payable for the goods in accordance with Article 1 and paragraph 7 of Annex III to the Valuation Agreement, given that it is a requirement imposed by the seller on the buyer as a condition of sale of the imported goods. Colombia envisages that the Technical Committee will address these two possibilities.

#### Discussion

108. Certain delegates considered that taken together, the information provided by Colombia in the text at issue (set out in Annex V to Doc. VT1071E1a) and in the non-paper, was not sufficient to allow for the effective consideration of this question concerning the Customs valuation treatment of the International Marketing Fee (IMF), or indeed for the consideration of any related sub-issues, including in particular the matter of royalties and licence fees, and that of distribution rights.
109. The International Chamber of Commerce (ICC) drew attention to some inaccuracies in the current text where the facts of the case were concerned, particularly with regard to the status of the licensor if he/she was not the seller. The ICC wished to transmit its written comments to Colombia and engage with its experts, with a view to clarifying these facts.
110. In addition, the ICC indicated that after holding an internal meeting it would send the WCO Secretariat an official communication drawing attention to the importance of ensuring that the facts to be placed before the Technical Committee for consideration were accurate and comprehensive, so that the discussions and the preparation of the resulting Technical Committee instruments were based on precise facts.
111. Other delegates took the view that the text setting out the facts of this question had been improved on more than one occasion during the sessions, and in the process, certain information which now turned out to be relevant to the consideration of this question had been removed.

112. After a discussion, several delegates said they would like the consideration of this question to be postponed until the next session of the Technical Committee, so that Colombia could subsequently submit a text which accurately and correctly presented the relevant facts of its question.

#### Conclusion

113. At the Chairperson's request, the Technical Committee agreed to consider this question further at its 44<sup>th</sup> Session, on the basis of a new text setting out the facts, which would present all the relevant facts. For this purpose, Colombia was invited to work with the Secretariat and with Members that were willing to offer their contributions.

#### **Item VI on the Agenda : QUESTIONS RAISED DURING THE INTERSESSION**

- (a) Valuation of imported goods purchased in "Flash sales" :  
submitted by Mauritius

Doc. VT1062E1a

#### Background

114. The Chairperson introduced this new question submitted by the Mauritian Administration, the text of which was set out in the Annex to Doc. VT1062E1a. In the absence of a Mauritian delegation at this 43<sup>rd</sup> Session, the Chairperson gave the floor directly to the Technical Committee to ascertain whether it wished to discuss this case as a specific technical question at the next Session.

#### Summary of discussion

115. Delegates agreed that this question should be discussed as a specific technical question because it was a significant and highly topical subject with a special feature, namely the low selling price of the articles as they were purchased electronically.

#### Conclusion

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116. The Technical Committee agreed that this case would be discussed as a specific technical question at the next session.

(b) Use of Transfer Pricing documentation to examine related party transactions according to Article 1.2 (a) of the Agreement : submitted by Uruguay

Docs. VT1063E1a and VT1073E1a

### Introduction

117. During the intersession, Uruguay submitted a question, reproduced in the Annex to Doc. VT1063E1a and accompanied by a draft Case Study, for consideration by the Technical Committee. The Delegate of Uruguay considered it appropriate and necessary to have another instrument with a similar factual scenario as in Case Study 14.1 but with a different outcome (namely that the price was influenced by the relationship) for the benefit of both Customs administrations and economic operators.
118. In response to Doc. VT21063E1a, China provided written comments (reproduced in the Annex to Doc. VT1073E1a) indicating its support for discussing this case as a Specific Technical Question.

### Discussion

119. Some delegates considered the question should not be examined in its present form and questioned the basis and methodology used for arriving at the conclusion, as drafted. The Delegate of Uruguay agreed to make changes to the document. Following discussions, the delegates agreed to examine the question as a Specific Technical Question.

### Conclusion

120. The Technical Committee decided to include the question as a Specific Technical Question to be examined at the next Session. Uruguay will work with the Secretariat to revise the document, reflecting Members' comments.

(c) Interpretation of the term "to" in Article 8.2(a) and (b) of the



Agreement : submitted by Uruguay

Doc. VT1072E1a

121. During the intersession, Uruguay submitted a question to be considered by the Technical Committee concerning the interpretation of the term “to” in Article 8.2(a) and (b) of the Agreement. The question was annexed to Doc. VT1072E1a.
122. The Delegate of Uruguay mentioned that many countries have opted to include the adjustments provided in Article 8.2 in the Customs value. However, there are various interpretations given and applications made to this term and he suggested it would be useful to have an instrument from the Technical Committee for the benefit of Customs administrations and business.
123. The Technical Committee agreed to examine the question as a Specific Technical Question for examination at the 44<sup>th</sup> Session.

**Agenda Item VII : OTHER BUSINESS**(a) Customs -Tax Cooperation

Doc. VT1067E1a

Background

124. At the 42<sup>nd</sup> Session the Secretariat provided an update on the work being carried out on the topic of Customs –Tax Co-operation and shared the draft “Guidelines for Strengthening Cooperation and the Exchange of Information between Customs and Tax Authorities at the National Level” (Guidelines) with the Technical Committee.
125. Comments and suggestions had been made by the Technical Committee on the draft Guidelines at the 42<sup>nd</sup> Session. The draft Guidelines were updated with these inputs as well as with those from the Permanent Technical Committee/Enforcement Committee, the OECD, the ICC and from WCO Members’ working experiences and best practices. The updated Guidelines were presented to the Policy Commission and the Council in July 2016 and were annexed to Doc. VT1067E1a.

126. In the same context, the ICC made a presentation on the Base Erosion and Profit Shifting (BEPS) and its relation to Customs Valuation. Under BEPS, the transfer pricing methodologies for tangible products are not changing, the arm's length principle remains intact and the Technical Committee instruments on transfer pricing and Customs valuation remain relevant. However, the Observer stated that business structures may be modified to align with the BEPS approach to allocate profit where value is created. More functions and risks may be undertaken by the importer which may result in the Customs value of goods being reduced.
127. The documentation requirement of keeping a global master file, local files with transactional detail and financial data and country-by-country report under the BEPS will provide more information for examining the circumstances surrounding the sale.
128. Responding to one delegate, the Observer from the ICC stated that the local files which contain transactional detail and financial data would be kept in the country of import and its implementation would depend on national laws and rules. It is expected that the use of tax havens to house procurement of goods facilities by multinationals will be reduced with the implementation of BEPS. Finally, it was clarified that the methodologies for assessing the value of intangibles are different from the methodologies to assess tangibles. The BEPS looks at the economic substance rather than at the purely contractual terms. Payments made for intangibles between associated companies would for tax purposes be assessed by applying the arm's length principles.
129. The Secretariat made an oral presentation on the exchange of information and its evolution over time. The WCO adopted two Conventions for the exchange of information between Customs Administrations namely : the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences of 1967 (Nairobi Convention which came in to force in 1980) and the International Convention on mutual administrative assistance in Customs matters (Johannesburg Convention) of 2003 in that respect.
130. In 2003, the Technical Committee also adopted the Guide to the Exchange of Customs Valuation Information. This Guide provides a check list regarding valuation verification actions to be taken by the Customs administration of the importing country before considering a request for information from the Customs administration of the exporting country and also contains a set of recommended procedures applicable to both Customs
- 26.

administrations. A copy of this guide is available on the Members website via the following link : <http://www.wcoomd.org/en/topics/valuation/instruments-and-tools.aspx>.

131. The Contact Point on Valuation Matters and Exchange of Customs Valuation matters is also published on the Member's Website.
132. Article 12 of the WTO Trade Facilitation Agreement also sets out procedures for the exchange of information for the purpose of verifying an import or export declaration in identified cases where there are reasonable grounds to doubt the truth or accuracy of the declaration and to notify the details of their contact points for the exchange of this information.
133. Moreover from a tax perspective the OECD under BEPS Action 13 recognizes that enhancing transparency for tax administrations by providing them with adequate information to assess high level transfer pricing and other BEPS related risks is a crucial aspect for tackling the BEPS problems(C2C reporting). Further initiatives of the G20 Leaders and the OECD on the subject of tax transparency and exchange of information, including the launch of the Global Standard for Automatic Exchange of Financial Account Information on Tax Matters, have put a greater focus on exchange of information.
134. In regard to Customs valuation matters, Customs and Tax Officials are encouraged to cooperate and share information. Information sharing is also in line with the concept of Coordinated Border Management as promoted by the WCO.
135. The Secretariat made a presentation on illicit financial flows(IFFs) through trade misinvoicing in the context of trade based money laundering. The presentation depicts the implication of IFFs for Customs.
136. Where no misinvoicing took place, the financial transaction would equal the import invoice. A misinvoicing on import could have two effects, either over-invoicing or under-invoicing of imports. In the case of over-invoicing of imports, the revenue will be impacted as follows : Customs duty will increase and tax revenue will decrease. In the case of under-invoicing the converse will occur.
137. On the assumption that there is no Customs duty on export the effect of misinvoicing of export would impact only on tax revenue. An over-invoicing of the export would increase tax revenue in the country of export and conversely a decrease would be observed if the export is under-invoiced.

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138. The motivation for over-invoicing or under-invoicing of imports or exports could vary. Through over invoicing at import the motivation could be to shift undeclared income/profit, shift criminal proceeds out or evade capital controls whereas over invoicing at export could be motivated by refund claims and subsidy.

139. Several delegates shared their country experience with respect to Customs -Tax cooperation.

#### Conclusion

140. The Technical Committee took note of the presentations which were found to be very informative.

(b) Information Document on Global Value Chains

Doc. VT1064E1a.

#### Background

141. As requested by the Technical Committee at its 42<sup>nd</sup> Session, the Secretariat updated the information paper prepared on this topic with all the examples that were presented by Uruguay in previous Sessions.

142. The Committee was asked to decide where it would like to archive this and similar information papers.

#### Discussion

143. The Technical discussed the appropriate place to archive the information paper and decided it should be put in Part III of the Conspectus Of Valuation Technical Questions with the other working documents produced for this question.

#### Conclusion

144. The Information Paper will be included in Part III of the Conspectus of Valuation Technical Questions.

(c) Discussion on future Theme Meeting

Docs. VT1065E1a and VT1074E1a

145. The Chairperson provided background to the proposal from Members to hold a Theme Meeting at the 44<sup>th</sup> Session on one or more selected themes.
146. The Secretariat had listed the themes discussed at previous meetings in Doc. VT1065E1a and invited Members to propose topics. A proposal was received from Uruguay on the topic of “Cases in which the relationship does have an influence on the price” and was reproduced in the Annex to Doc. VT1074E1a. Additionally, the Secretariat had proposed that the topic of underinvoicing be discussed, linked to the recent G20 Communiqué.
147. The most recent Theme Meeting was held during the 38<sup>th</sup> Session. The duration could be one day or one and a half days.

Discussion

148. Delegates expressed doubts regarding the Secretariat’s proposal to discuss underinvoicing in the context of the G20 Communiqué as it concerns fraud and therefore not an appropriate matter for the Technical Committee. Instead, it could be considered a subject for discussion by the Working Group on Revenue Compliance and Fraud.
149. Another delegate said that the Theme Meeting concept provided a forum for discussing current topics in a different way. He added that it would be useful to capture a video record of Theme Meetings which could be seen by others who may be unable to attend the sessions.
150. One delegate suggested that the topic of the misuse of valuation databases be discussed. She acknowledged that this had been the subject of previous Theme Meetings but noted that this was still an ongoing problem. Responding to this suggestion, one delegate proposed that the more general topic of valuation risk management be discussed;

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valuation databases could be considered in this context. Another delegate flagged up the related issue of valuation of used vehicles. This idea was supported by other delegates.

151. Valuation aspects of e-commerce was also proposed for discussion and supported by several delegates. The Observer of the ICC offered to contribute to the Theme Meeting, if the Technical Committee so desired.

### Conclusion

152. The Technical Committee agreed that the topics for the Theme Meeting would be valuation aspects of e-commerce and valuation risk management. It was also agreed that the Secretariat could determine the time to be allocated to the Theme Meeting, based on the programme which will be developed.

(d) Presentation by the Secretariat on the e-learning and discussion Clikc platform

153. The Secretariat gave a presentation on the Clikc e-learning and discussion Platform which is to replace shortly the Club de la Réforme Platform which was used as a tool for informal discussion on Specific Technical Questions by Members.

154. A live demonstration of the website was made. Members showed a lot of interest in this platform as it also provides access to training materials developed by WCO.

155. Members wishing to access the Clikc platform would be required to register through their national Clikc contact point. The list of contact points is available on <http://clikc.wcoomd.org/>

### **Agenda Item VIII : PROGRAMME OF FUTURE WORK**

156. The Deputy Director stated that the following items would be included in the Agenda for the 44<sup>th</sup> Session :

- Adoption of Agenda/Suggested programme
- Adoption of the Technical Committee's 43rd Session Report

- Reports on intersessional developments
  - Director’s Report
  - WTO Committee on Customs Valuation oral report
- Technical assistance, capacity building and current issues
  - Report on technical assistance/capacity building activities undertaken by the Secretariat and Members
  - Progress reports from developing country Members’ on practical application of the WTO Valuation Agreement
  - Revenue Package
- Specific technical questions
  1. Related Party transactions under the Agreement and Transfer Pricing – case based on resale price method example : submitted by China
  2. Sales condition, objective and quantifiable data : submitted by Mexico
  3. Examining the circumstances surrounding the sales under the provisions of Article 1.2 (a) – goods produced in different countries : submitted by Ecuador
  4. International Marketing Fee : submitted by Colombia
  5. Valuation of imported goods purchased in “Flash Sales” : submitted by Mauritius
  6. Use of Transfer Pricing documentation to examine related party transactions according to Article 1.2(a) of the Agreement : submitted by Uruguay
  7. Interpretation of the term “to” in Article 8.2(a) and (b) of the Agreement : Submitted by Uruguay
- Questions raised during the intersession (as appropriate)
- Other business
  - Customs – Tax cooperation
- Theme meeting
- Elections
- Programme of future work
- Dates of next meeting

**Agenda Item IX :            DATES OF NEXT MEETING**

157.            The Director announced that the 44<sup>th</sup> Session of the Technical Committee on Customs Valuation had been provisionally scheduled for 8 to 12 May 2017.

*Concluding Remarks*

158. Delegates gave their thanks and appreciation to Mr. "Pepe" REGUERAS, a Spanish interpreter, on his retirement. Pepe was noted for his happy personality and had served the Technical Committee since 1993 to a very high standard.
159. The Chairperson and Director thanked delegates, the Secretariat and support staff for their efforts during the week, before the Chairperson formally declared the 43<sup>rd</sup> Session closed.

Y. GULIS,  
Chairperson.

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Annex B to Doc. VT1075E1a  
(VT/43/Oct. 2016)

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Annex B to Doc. VT1075E1a  
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**Oral report By the WTO  
to the 43<sup>rd</sup> Session of the Technical Committee on Customs Valuation**

**17-21 October 2016**

1. Good morning, Madam Chair, good morning, everyone. It is a pleasure for me to present this report on behalf of the WTO Committee on Customs Valuation.
2. I would like to update you on several issues related to the activities of the Committee:  
1) the status of notifications; 2) the examination of national legislations; 3) notification of the checklist of issues; 4) Information on the application of the Committee Decisions 5) Technical assistance 6) Preshipment Inspection 7) election of a Chairperson to the Committee on Customs Valuation.

**Notifications**

3. As Members might recall, the Committee on Customs Valuation reviews four different types of notifications, which include: Members' laws and regulations; the responses to check list of issues; the date of implementation of the Decision on Interest Charges; and, whether Members apply paragraph 2 of Decision 4.1.
4. The status of notifications of national legislation and checklist of issues is now systematically compiled in a report, with the most recent version being issued this week in document G/VAL/W/232/Rev.5. To date, 96 Members have notified their national legislation on customs valuation. Progress in the receipt of notifications remains slow. Up to now, some 36 Members have not submitted a copy of their national legislation.

**Examination of national legislation**

5. From Oct 2015 to now, the Committee has concluded the review of the national legislation of 4 Members: Mali; Moldova; South Africa and St Vincent and the Grenadines. New notifications were submitted by the Russian Federation (G/VAL/N/1/RUS/1/Add.1) and the Solomon Islands G/VAL/N/1/SLB/1.

### **Checklist of issues**

6. 65 Members have provided responses to the checklist of issues. During the reporting period, one communication was received from Kazakhstan (G/VAL/N/2/KAZ/1). However, 41 Members have not yet submitted answers to the Checklist of issues.
7. I would like to acknowledge the positive contribution of Members of the TCCV to the work of the Committee in Geneva, in terms of encouraging the submission of legislation and responses to the Checklist of Issues. I would continue to request their assistance with this matter.

### **Information on the application of the Committee Decisions**

8. The Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods adopted by the Committee (G/VAL/5) requires each Member to notify the Committee of the date from which it will apply the Decision. The Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment adopted by the Committee (G/VAL/5) requires those Members adopting the practice referred to in paragraph 2 of the Decision to notify the Committee of the date of its application.
9. Both Notifications are summarized by the Secretariat in document G/VAL/W/5/Rev.26, which is forthcoming. During the reporting period, the Committee received new notifications from Kazakhstan (G/VAL/N/3/KAZ/1 and G/VAL/N/3/KAZ/2).
10. The Committee has been continuing its discussions on a proposal by Uruguay (G/VAL/W/241/Rev.1) to update the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment, which was first submitted to the Committee in November 2013, as well as a related proposal by Switzerland (G/VAL/W/254). At the request of the Committee, the Secretariat had prepared a report with statistics on imports of those products, which was circulated in G/VAL/W/249. Uruguay had also provided responses to questions raised by one delegation which were circulated in document G/VAL/W/264.
11. There were no decisions adopted during the reporting period.

### **Technical assistance**

12. Technical assistance in the area of customs valuation was now incorporated into the WTO-wide technical assistance programme, and that 2016-2017 biennial technical assistance plan was currently being implemented. During the reporting period, training on customs valuation was included in the WTO Regional Trade Policy Courses for English-C/2.

speaking Africa; French-speaking Africa; Asia; the Caribbean; and, Latin America. It was also included in the three Advanced Trade Policy Courses held at the WTO.

13. Members also have the possibility to request at any time technical assistance on customs valuation, which would be met by a national activity designed to meet the needs of the recipient. In July 2016, a national activity was carried out for Honduras in cooperation with the WCO and next month in St. Vincent.
14. Again, I would like to remind Members of the TCCV that requests for technical assistance can be made by individual WTO Members at any time, and a national activity designed to meet the needs of the recipient will be organized. We have been making efforts to systematically hold joint WCO/WTO activities, and these have been well received by beneficiaries.

#### **Trade concerns raised**

15. A number of trade concerns continue to be discussed (i) the alleged use by Armenia of reference prices (the United States); (ii) Indonesia's lack of notifications on Pre-Shipment Inspection measures (the United States), and (iii) Ukraine's creation of a database of pre-determined commodities which would act as benchmark values, contained in Resolution No. 724 (issue raised by the United States, Norway, Switzerland and the EU).

#### **Preshipment Inspection**

16. The Secretariat prepared a report consolidating all the notifications which had been received on preshipment inspection (G/PSI/N/1/Rev.2/Add.3). During the reporting period, new notifications were submitted by Kazakhstan and Vanuatu.
17. On the report by the International Federation of Inspection Agencies (IFIA) concerning countries that use preshipment inspection services, new information was submitted in November 2015 and was circulated in documents G/VAL/W/63/Rev.18 and G/VAL/W/63/Rev.18/Add. 1. Additional information was provided at the beginning of May 2016 and it was circulated in document G/VAL/W/63/Rev.19.

#### **Consultation and Dispute Settlement**

18. During the reporting period, there were no requests for consultations involving either the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Agreement on Customs Valuation) or the Agreement on Preshipment Inspection.

**Election of Chairperson**

19. Dr Yasswer Korani, Egypt, was elected by acclamation for 2016

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