



TECHNICAL COMMITTEE ON
CUSTOMS VALUATION

VT1073E1a
+Annex

-
43rd Session
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O. Eng.

Brussels, 22 September 2016.

QUESTION RAISED DURING THE INTERSESSION

USE OF TRANSFER PRICING DOCUMENTATION TO EXAMINE RELATED PARTY
TRANSACTIONS ACCORDING TO ARTICLE 1.2 (a) OF THE AGREEMENT

Request by Uruguay

(Item VI (b) on the Agenda)

I. BACKGROUND

1. During the intersession Uruguay submitted a question for consideration by the Technical Committee.
2. The Secretariat published the question in the Annex to Doc. VT1063E1a. The Technical Committee was invited to consider the question at the 43rd Session and determine whether it wishes to examine this issue as a Specific Technical Question at a future Session.

II. SECRETARIAT COMMENTS

3. China has provided its written comments on the question and wished to include the question as a Specific Technical Question to be examined by the Technical Committee.
4. The written comments from China are reproduced in the Annex to this document.

III. CONCLUSION

5. The Technical Committee is invited to consider the question at the 43rd Session and determine whether it wishes to examine this issue as a Specific Technical Question at a future Session, taking into account the written comments made by China.

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COMMENTS BY CHINA CUSTOMS ADMINISTRATION

Use of Transfer Pricing (TP) documentation to examine related party transactions according to Article 1.2 (a) of the Agreement

1. China Customs Administration would like to thank the Secretariat and Uruguay Customs Administration for preparing the document concerning use of TP documentation in examining related party transactions under Article 1.2 (a).
 2. According to conclusion of the document, Customs administration believed that the special relationship had influenced the transaction value based on the fact that the price actually paid by ICO for the goods it purchased from its related supplier was 10 % lower than the price paid by JCO for similar goods to its unrelated supplier over the same period, even though ICO's operating profit margin falls within the arm's length range of comparables. However, the document does not explain the reason why the outcome of the TP study was not accepted. We hope Uruguay Customs may provide further detailed clarification in this regard.
 3. In this case, during the examination of TP documentation, Customs identified that the goods imported by JCO (one of the comparable companies) were similar goods within the meaning of the Agreement. This could be an indication that a test value existed, however this test value was identified by Customs but not provided at the initiative of the importer. According to the Agreement, the test values set forth in paragraph 2(b) are to be used at the initiative of the importer. So we would like to suggest that the TCCV consider the following questions : Whether or not the transaction value of similar goods imported by JCO could be considered as a test value under the provisions of Article 1.2(b) ? Whether or not Customs could examine the case under the provisions of Article 1.2(b) instead of Article 1.2(a) ?
 4. China Customs considers that this case is of great significance for Customs examination of related party transactions. We would like to suggest this case be included in the Specific Technical Questions of the TCCV.
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