



Brussels, 26 October 2018.

DRAFT REPORT TO THE CUSTOMS CO-OPERATION COUNCIL ON
THE 47th SESSION OF THE TECHNICAL COMMITTEE ON CUSTOMS VALUATION

Opening remarks

1. The Technical Committee on Customs Valuation (“Technical Committee”) held its 47th Session at the Headquarters of the World Customs Organization (“WCO”), in Brussels from 22 to 26 October 2018. The Session was chaired by Mr. Jan Birkhoff (The Netherlands) 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, joined the Chairperson in welcoming all the Delegates and Observers to the 47th Session of the Technical Committee. He gave a special welcome to the Portuguese-speaking delegations of Portugal and Angola present at this Session. He explained that following the decision of the WCO Council at its 132nd Session in June 2018 to introduce additional languages in WCO Committees, interpretation into Portuguese as a working language is now available at the Technical Committee, in addition to the four languages already used - English, French and Spanish the official languages as provided in the WTO Customs Valuation Agreement and Arabic as a working language. He pointed out that as provided in Annex II to the WTO Customs

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Valuation Agreement, the official working documents of the Technical Committee shall be in English, French and Spanish only. This overall programme for the use of additional languages is a two-year project funded by the WCO Reserves after which an evaluation will be carried out. The Delegate of Portugal thanked WCO for this initiative and found that it would be a very useful tool for Portuguese-speaking Members.

3. The delegates were encouraged to take an active part in the discussions at this 5-day Session of the Technical Committee. Referring to Agenda Item VII on the review of working methods for dealing with technical questions, he noted that no comments were received and suggested that the Members of the Technical Committee reflect on the emerging new dynamics to decide how it would wish to conduct this work in future. He concluded by reminding the Technical Committee of the expectation of Customs Administrations in this regard, especially those delegations of developing countries. Finally, he wished the Chairperson and the Technical Committee a fruitful and successful Session.

Agenda Item I : **ADOPTION OF AGENDA**

(a) Provisional Agenda

Doc. VT1138E1c

4. The Chairperson summarized the provisional Agenda contained in Doc. VT1138E1c which was circulated to Members and invited the delegates for their comments on the Agenda.
5. He observed that there would be an update by the Observer from the Organization for Economic Cooperation and Development (OECD) on Transfer Pricing and the Base Erosion and Profit Shifting (BEPS) programme under Agenda Item VII. Moreover, he added that the Delegate of South Africa will, under Item IV (b) of the Agenda - Progress Report on developing countries implementation of the WTO Customs Valuation Agreement - make a presentation and invited delegates to inform the Technical Committee if they wished to raise additional issues under Agenda Item VII (Other Business) before the adoption of the Agenda.

Conclusion

6. The Technical Committee adopted the Agenda as proposed in Doc. VT1138E1(c) without any amendment.

2.

(b) Suggested programme

Doc. VT1139E1a

7. The Chairperson referred to Doc. VT1139E1a which sets out the suggested programme of work for the 47th Session prepared by the Secretariat and informed the Technical Committee that the update by the Observer from OECD has been postponed from Tuesday to Wednesday since the representative would be in attendance only on Wednesday. He observed that three new questions submitted during the intersession by Uruguay and Egypt will be dealt with under Item VI of the Agenda and invited comments on the suggested programme.

Conclusion

8. The Technical Committee approved the suggested programme set out in Doc. VT1139E1a as amended.

Agenda Item II : ADOPTION OF THE TECHNICAL COMMITTEE'S 46th SESSION REPORT

Doc. VT1137E1c

9. The Chairperson summarized the changes made to the reporting procedure as adopted at the 42nd Session.
10. Accordingly, the Secretariat had prepared and circulated to delegates a draft Report (the "a" version) for their comments. Comments were received from the Delegates of Argentina, Canada and Uruguay. The "b" version of the draft Report containing the written comments received was prepared by the Secretariat and was published for further comments or objections to these comments.
11. No comments/objections were received on the "b" version of the draft Report. The "b" version of the draft Report was deemed to have been approved. A clean version "c" was published on the WCO Members' Web site.
12. The Chairperson noted minor typing errors at paragraphs 22, 99 and 1.1 in Annex C to the Report.

Conclusion

13. The Technical Committee approved the Report of the 46th Session of the Technical Committee, incorporating the minor editing changes as indicated.

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

(a) Director's Report

Doc. VT1140E1a

14. The Chairperson invited the Director to present the Director's Report, contained in Doc. VT1140E1a. The Director summarized the key intersessional activities included in the document.
15. The Director briefed the Technical Committee on the relevant work of the Policy Commission (PC) at its 79th Session and the Council at its 132nd Session which were held in June 2018, in particular on the Revenue Package, Combatting Illicit Financial Flows and the Technical Committee on Customs Valuation as follows:
- (i) Under the Revenue Package, the Policy Commission had taken note of the activities regarding the new and updated materials prepared by the Secretariat and the conclusion of the Revenue Package Phase III Action Plan. This work was also noted at the Council.
 - (ii) With respect to Combatting Illicit Financial Flows (IFFs), the PC had been updated on related developments arising after the previous Session with focus on the draft WCO Study Report on IFFs via trade mis-invoicing (TM). The Study Report was presented to the PC with highlights on two issues: firstly, global attention should focus on the actions to combat illicit flows and, secondly, Customs should secure sufficient mandate and resources to combat IFFS/TM, enhance capacity building and partnership with business, tax authorities, FIUs and the Customs Administrations of Trade partners and avail of new technologies such as like blockchain. It was also reported to the PC that the Argentinian G20 Presidency was in a position to suggest to the G20 Development Working Group (DWG) that the WCO be offered the opportunity to present its Study Report as part of the DWG's agenda.

The Policy Commission and subsequently the Council:

- took note of the report on the developments and progress made to date and recommended that a one-day session on the topic of illicit financial flows be held in the margins of the Enforcement Committee; invited the Secretariat to take note of the guidance provided regarding the WCO's approach and future work in relation to illicit financial flows;
- approved the Study Report, including the Executive Summary and the Policy Recommendations, before its submission to the G20; and
- noted that the Study Report would be kept open so that comments from Members, the G20 and other stakeholders could be taken into account.

(iii) In relation to the Technical Committee on Customs Valuation, the Director and the Chairperson of the Technical Committee had presented the work of the Technical Committee to the Council. The Council duly approved Case Study 14.2 and approved the reports of the 44th and 45th Sessions of the Technical Committee on Customs Valuation, contained in Docs. VT1098E1c and VT1117E1c.

16. The Director referred briefly in his report to the WTO Committee on Customs Valuation and Technical Assistance/Capacity Building Activities which will be covered in detail under other specific items of the Agenda.
17. Under the heading "Other Activities and Issues" referred to in Doc. VT1140E1a, the Technical Committee was informed that the WCO's study report on IFFs was presented by the Director to the G20 Development Working Group at its second meeting held in Tucuman, Argentina on 12 July 2018. It was the first time that the IFFs issue was put on the agenda of a G20 meeting since the G20 Leaders Communique Hangzhou Summit, issued in September 2016. The study report on IFFs was also presented to the G20 Anti-Corruption Working Group meeting held on 8-9 October 2018.
18. With regard to the publication of historical working documents, six additional sets of working documents had been published since the 46th Session of the Technical Committee.
19. He informed the Technical Committee about staff changes. In this respect, he announced the arrival of Mr. Alagic Ognjen from Bosnia and Herzegovina as a Professional Associate in the Valuation sub-Directorate as well as the departures of Mr Benson Lim (Technical Attaché) and Ian Cremer (Senior Technical Officer) at the end of October 2018 and January 2019 respectively.

20. He concluded by encouraging delegates to advise the Secretariat of any changes in the valuation Contact Point list and the Index of Reference Materials as these lists provide a valuable resource for Members.

Discussion

21. One delegate thanked the Director for updating the Technical Committee on intersessional developments since the 46th Session and asked whether the Secretariat could provide more information through a presentation on the study report on IFFs. Responding to this request, the Director informed the Technical Committee that the study report, which contains little reference to Customs valuation, represents a collective effort by the WCO Secretariat, experts and the study report is not an official WCO document. A presentation on IFFs was organized and presented during the 47th Session for the benefit of delegates.

(b) WTO Committee on Customs Valuation Report

22. The Observer for the World Trade Organization (WTO) presented the report on behalf of the Committee on Customs Valuation (Committee). Since there was no formal meeting of the Committee since the 46th Session of the Technical Committee, the report was focused on fewer activities than usually reported upon.
23. Notifications and Technical Assistance were the areas covered in the report. The four types of notifications reviewed by the Committee had been compiled in a report document G/VAL/W/232/Rev.8.
24. No notifications had been received since the last Session. With regard to technical assistance, the Committee had met to discuss how the Committee could improve technical assistance to Members to overcome the challenges in implementing the WTO Customs Valuation Agreement. Work in this area is continuing along the following two approaches:
- (i) An information/experience-sharing workshop will be organized in Spring next year for an exchange on the challenges being experienced by LDCs and the experience of other Members in addressing such challenges; and,
 - (ii) the Committee will work to highlight the existence of a strong linkage between the WTO Customs Valuation Agreement and the WTO Trade Facilitation Agreement (TFA), and the necessity and benefits for Members to work on this linkage in order to strengthen the implementation of both agreements.

25. The Observer informed the Technical Committee that many Members from developing countries had agreed to make presentations at the Workshop. In addition, the Chairperson of the Committee made a presentation on the linkage between the two WTO Agreements and reminded Members that were still working on specifying exactly the type of technical assistance that they required in order to implement the TFA of the importance of having a solid, functioning valuation system as a vital trade facilitation measure.
26. Full details of the WTO report can be found in Annex C to this document.

Discussion

27. One delegate thanked the Observer for the insightful report on the work of the Committee and commented that these meetings are attended by representatives from Trade who are not aware of the practical issues encountered in the implementation of the Agreement and Customs are not aware of the discussions at the Committee. He wanted to know the monitoring mechanisms in place at the WTO to ensure the proper implementation of the Agreement and asked whether it is not time to review the Customs Valuation Agreement. Another delegate underscored the work done by the Committee and the coordinated efforts of both WTO and WCO in building capacity for his region.
28. The Director drew the attention of the delegates of the Technical Committee of the increasing momentum that capacity building is gaining now with regard to the implementation of the Customs Valuation Agreement after a period of relative quietness, following the intensified efforts that were put in capacity building upon the entry into force of the Agreement. Looking again at the difficulties faced by developing countries in implementing the Agreement and building strong linkages with the TFA are good initiatives that the Committee is taking, hoping that through this synergy of efforts more resources would be available for capacity building in the implementation of the Customs Valuation Agreement. He also wished that WTO Secretariat coordinate with capitals so that more Customs officials could attend and share the practical difficulties being faced by Customs in implementing the Agreement at the proposed workshop in Geneva.
29. Regarding an update on the follow-up of the Chairperson of the Committee on outstanding questions to nine Members, the Observer from WTO explained the procedure when examining national legislations and said that two Members had sought clarification and the remaining are still pending. One delegate raised the issue relating to the notification obligation that Members have when amending their related legislation which is often not complied with. The Observer took note of the issues raised and suggested that their representatives bring these issues to the attention of the Committee to ensure follow up.

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Conclusion

30. The Technical Committee took note of the WTO oral report and the discussions which followed.

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. VT1141E1a and VT1153E1a

Background

31. In pursuance of a decision taken by the Technical Committee, the Secretariat had monitored and communicated details of the technical assistance/capacity building activities scheduled or delivered by Members, in order to provide useful information to all Members for planning purposes and to prevent duplication of effort.
32. Since the last session, the Customs Administrations of the United States and Japan had provided information about their technical assistance activities. This information had been reproduced, together with information about the technical assistance/capacity building activities undertaken by the Secretariat, in Annexes I and II respectively of Doc. VT1153E1a.

Discussion

33. The Secretariat informed the Technical Committee of its technical assistance and capacity building activities scheduled for the intersession, the details of which were set out as follows :
- a Training of Trainers workshop on Customs valuation would be organized for the Lesotho Revenue Authority;
 - a technical assistance mission would be organized for the Customs Office of the Togolese Revenue Office with a view to establishing a control system for the valuation of imported goods;

- two advanced training workshops on Customs valuation and transfer pricing would be organized, one for the Thai Customs Department and the other for Fiji Customs; and, lastly,
- a joint WCO-OECD Workshop on Customs valuation and transfer pricing for the Asia Pacific Region, due to be held in March 2019.

Conclusion

34. The Technical Committee took note of the Report on the technical assistance/capacity building activities and of the additional information provided by the Secretariat.

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

Doc. VT1142E1a

Background

35. In pursuance of a decision taken by the Technical Committee, the Secretariat has monitored progress regarding the application of the WTO Customs Valuation Agreement by Members and had published status reports on the subject.
36. In advance of the Session, the Secretariat issued Doc. VT1142E1a inviting Members to provide information on the progress made in their countries with regard to the application of the Agreement.
37. During the intersession, South Africa Revenue Service (SARS) offered to make a presentation entitled "SARS New Legal Provisions on the Implementation of the WTO Valuation Agreement" under this item at the 47th session of the Technical Committee.

Presentation by SARS

38. The Delegate of South Africa began his presentation with an overview of the Customs valuation processes in his country (view on valuation through Customs mandate, reasons for updating legislation, benefits and status of legislation) and highlighted the legislative changes. The Delegate referred to the new Customs Duty Act apostrophizing some chapters which

deal with valuation matters. The Act was published in the Government Gazette in July 2014 and will come into force upon proclamation. Due to far reaching changes, work is still underway to align the new Acts with the development of capacity structures, policies, rules and IT systems for their implementation.

39. Accordingly SARS mandate covers the following:
- collection of duties and taxes taking into account the applicable tariff, valuation and origin of goods;
 - efficient trade facilitation through simplification and harmonisation of trade procedures; and
 - protection of society, economy and the fiscus by focusing on high risk - low value imports affecting local manufacturing.
40. Furthermore, the Delegate explained that the legislative re-write was justified by the long-standing current Customs Act (promulgated in 1964) which prevented keeping pace with global trends and technology, did not reflect modern standards of the Revised Kyoto Convention and other international instruments to which the Republic of South Africa is party to. There were also the needs to simplify the law and use simple language for easy understanding as well as differentiation between Customs and Excise functions.
41. He added that the Customs Duty Act and other tax levying Acts will rely on the “platform” provided by the Customs Control Act which gives maximum effect to the notion of self-assessment whereby traders can make their own tariff classification, value determination and origin determination.
42. Chapter 7 of the Customs Duty Act deals with valuation of goods and also provides for advance rulings system (tariff classification, valuation and origin). Advance ruling is not yet implemented and the Delegate took this opportunity to solicit assistance from Members who have already implemented an advance ruling system for Customs Valuation.
43. Some delegates sought additional information on certain terms and provisions of the legislation. Other delegates were interested in SARS’ use of instruments issued by the Technical Committee, existence of procedures relating to the implementation of WTO Decision 6.1 and valuation fraud.
44. At the suggestion of the Director, the Technical Committee agreed to change this agenda item to “Progress Report on Members’ application of the WTO Customs Valuation

Agreement” so that both developing and developed countries could share their experience in the implementation of the Agreement.

Conclusion

45. The Technical Committee took note of the presentation by SARS.

(c) Revenue Package

Doc. VT1143E1a

46. The Chairperson invited the Secretariat to provide an update on the work undertaken in respect of the Revenue Package programme.
47. The Secretariat informed the Secretariat that work conducted under Phase III of the Revenue Package programme had been successfully completed and reported to the Policy Commission and Council in June 2018.
48. The Secretariat made a presentation highlighting the materials developed under Phase III which are of relevance to Customs valuation. New materials included case studies on Members' valuation control programmes, such as China, Moldova and Uganda, a new document providing advice for least-developed countries on the implementation of the WTO Customs Valuation Agreement. Updated materials include a new version of the WCO Guide to Customs Valuation and Transfer Pricing, the Practical Guidelines for Valuation Control, the country case studies provided by Brazil, India and Mauritius and the Technical Guidelines on Advance Rulings. The latter document now contains a template for an application form for valuation advance rulings.
49. The new and updated tools are available via the Members' website. The Technical Committee was advised that the proposals for Phase IV of the Revenue Package would be discussed at the upcoming Working Group on Revenue Compliance and Fraud.

Discussion

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50. Members indicated their support and appreciation for the work produced under the Revenue Package Phase III. The Observer of the ICC noted that business did have an interest in obtaining advance rulings and offered to make a presentation to the Technical Committee on this topic.
51. The Delegate of China thanked the Secretariat for the opportunity to develop a case study on its valuation control programme which it hoped would be useful to others, noting that it was crucial to assist developing countries in applying the tools developed under the Revenue Package.
52. Another delegate commented on the work being done in encouraging stronger cooperation between Customs and Tax departments, noting that even where both departments were part of a common revenue authority, there was still a tendency to operate independently, with little cooperation. He said this should be addressed.
53. The Director said it was the responsibility of Members to make themselves aware of the wide range of tools and materials available and use them accordingly. He commented that part of the mandate for Phase III has been to provide support to Members in this area. He added that Members too have useful materials available which are listed in the WCO Index of Reference Materials and encouraged Members to make use of these materials.

Conclusion

54. The Technical Committee took note of the presentations and discussion. It was agreed that the ICC could make a presentation on advance rulings for valuation, from the business perspective, at the next Session. The Revenue Package will be placed on the agenda of the next Session.

Agenda Item V:

SPECIFIC TECHNICAL QUESTIONS

- (a) Valuation of imported goods purchased in “flash sales” – Request by Mauritius
Docs. VT1144E1a and VT1154E1a

Background

55. The Chairperson recalled that this technical question submitted by Mauritius had been under examination by the Technical Committee since its 44th Session. He summarized the views held by Members, including the view held by the ICC in its capacity as an observer, during the discussions held in the Technical Committee on this question of the valuation of imported goods purchased in “flash sales”, and the relevant information supplied by Mauritius in response to Members’ questions.
56. He pointed out to the Members that the two key questions raised were whether Customs should regard the highly discounted price of \$US 11.99 for an imported smartphone, purchased during a “flash sale” and paid for through PayPal, as the basis for Customs valuation under the provisions of Article 1 of the Agreement, and, in the affirmative, whether this price of \$US 11.99 may be used to determine the transaction value of identical or similar goods for which there is no transaction value.
57. Following discussions, the Technical Committee agreed, at its 46th Session, that the discounted price of \$US 11.99 should be accepted as the basis for Customs valuation under Article 1 of the Agreement. However, there was no consensus on whether this highly discounted price of \$US 11.99 could be used to determine the transaction value of identical or similar goods.
58. At the Chairperson’s request, the Technical Committee drew up, with the Secretariat’s assistance, the draft Advisory Opinion set out in the Annex to working document VT1144E1a. That draft Advisory Opinion clarified the fact that the discounted prices charged during “flash sales” should be accepted as the basis for Customs valuation under Article 1 of the Agreement. Paragraph 2 (c) of that draft Advisory Opinion was placed in square brackets on account of the fact that discussion was to be continued on the second key question mentioned in the paragraph above.
59. The Technical Committee was invited to continue its examination specifically of paragraph 2 (c) of the draft Advisory Opinion in relation to the second key question mentioned above.

Discussion

60. During the discussions held in the Technical Committee at its 47th Session, some delegates again drew comparisons with e-commerce which was a burgeoning commercial reality. They recommended that the Technical Committee take account of the analysis work

undertaken as part of the work under way in the WCO Working Group on E-Commerce (WGEC) on facilitating and controlling cross-border e-commerce. They felt that sales conducted on e-commerce platforms would have different characteristics from those conducted on the traditional market, thus prompting them to consider whether the Agreement would apply to some imported goods purchased by means of cross-border e-commerce.

61. Other delegates, however, acknowledged that, in the context of trade facilitation, certain appropriate, simplified procedures could be applied in the Customs clearance of this type of goods. They reiterated nonetheless that the Agreement continued to be the only international legislative benchmark for Customs valuation which must be applied without distinction to all imported goods, whether purchased on the traditional market or through e-commerce.
62. Following those discussions, the Technical Committee continued its examination of the draft Advisory Opinion set out in the Annex to working document VT1144E1a. It agreed the content of paragraph 2 (c) of the draft Advisory Opinion. That paragraph stated that the discounted price charged during a “flash sale” could be used for the purpose of applying the comparative methods laid down in Articles 2 and 3 of the Agreement only if, first, the imported goods concerned, purchased during a “flash sale”, fell within the definition of identical or similar goods set out in Article 15.2 of the Agreement and, secondly, all the conditions for implementing the comparative methods under Article 2.1 (a) to (d) or under Article 3.1 (a) to (d), as appropriate, were met. At Canada’s request, the Committee agreed to add to that paragraph a reference to Advisory Opinion 2.1 which stated that “the mere fact that a price is lower than prevailing market prices for identical goods should not cause it to be rejected for the purposes of Article 1, subject of course to the provisions of Article 17 of the Agreement.”
63. The Technical Committee also agreed to add paragraphs 2 (d) and 2 (e) to the draft Advisory Opinion in order to take account of the fact that “flash sales” were a specific commercial practice which entailed different market conditions to other sales conducted in general conditions. The delegates had reference to Commentary 1.1 which examined the question of identical and similar goods in the context of the application of Articles 2 and 3 of the Agreement, more specifically to paragraph 6 thereof, and to paragraph 12 of Explanatory Note 1.1 concerning the time element in relation to Articles 1, 2 and 3 of the Agreement. They considered it unlikely that the commercial practices and market conditions prevailing during “flash sales” would exist in situations outside of “flash sales”.

64. A final paragraph 2 (f) stating that “each situation must be examined on a case-by-case basis” was likewise added to that draft Advisory Opinion.
65. The Secretariat gave a presentation outlining the details of the work undertaken by the Working Group on E-Commerce set up in 2016. Although electronic commerce covered both physical and intangible goods, the speaker explained that the Working Group focused on the challenges posed in trading goods by means of e-commerce. Accordingly, a Framework of Standards on Cross-Border E-Commerce, based on the eight principles outlined in the Luxor Resolution and containing 15 standards developed by the Working Group, had been approved by the Council at its 132nd Session. The Framework of Standards had been published in various languages and can be viewed here :
<http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/ecommerce.aspx>

Conclusion

66. On a proposal from the Chairperson, the Technical Committee agreed to re-examine the improved text of the draft Advisory Opinion at its 48th Session.

(b) Interpretation of the value of adjustments under Article 8.1 (b) of the Agreement – Request by Uruguay

Docs. VT1145E1a and VT1155E1a

Background

67. The Chairperson introduced this question, which had been under examination by the Technical Committee since its 46th Session. It concerned the treatment under the Agreement of costs and charges incurred for the delivery of assists to the seller or the manufacturer of the imported goods to be valued. He pointed out that these costs and charges were normally included in the price actually paid or payable for the imported goods when they were borne by the seller. However, when they were borne by the buyer, they were not as yet included in the price actually paid or payable. In the latter instance, several delegates maintained that those costs and charges for delivery of assists should be included in the Customs value under Article 8.1 (b) of the Agreement.

68. Following discussions held during its 46th Session, the Technical Committee had agreed to continue its examination of the question at issue on the basis of an improved text of the draft Commentary. During the intersession, the Secretariat had published working document VT1145E1a, which set out, in its Annex, the improved draft Commentary on this question, and invited Members to submit their written comments. No written comments had been submitted by Members in response to working document VT1145E1a.

Discussion

69. During the discussions held in the Technical Committee at its 47th Session, various Members expressed their interest in the question under consideration. Some Members shared their experiences from the national perspective regarding the treatment under the Agreement of costs and charges incurred for the delivery of assists. Like the United States before it, Canada for its part informed the Technical Committee that its country had drawn up a regulatory instrument providing that those costs and charges for delivery of assists may be imposed and must be included in the Customs value.
70. It was apparent from those discussions that, when they are borne by the buyer and were not already included in the price actually paid or payable, these costs and charges for delivery of assists to the seller or manufacturer of the imported goods to be valued must be taken into account in determining the Customs value of the imported goods to be valued under Article 8.1 (b) of the Agreement. Such was the view held by almost all Members.
71. The Delegation of the European Union for its part expressed a different view, relying on a passage from the WCO Customs Valuation Control Handbook¹ as revised and updated in 2007. According to that passage in the Handbook, the value of assists is, *inter alia*, the costs of transportation (including any foreign duties, taxes or charges and landing costs incurred overseas) if paid by the buyer, after their acquisition or production by the buyer, to the place where they are used in the production of the imported goods, if the national regulations so require.
72. The Secretariat reminded the Technical Committee that the WCO's instructive handbooks were occasionally updated and provide recommendations only. They did not have the same status as Technical Committee instruments, which contained information and guidance by the Technical Committee that may be useful for determining a country's national

¹ WCO, Customs Valuation Control Handbook, Part III, Chapter 13, p. 92.

Customs valuation policy. Such information and guidance, which was not binding, may become so after their inclusion in national law. It noted that these were not essentially opposing viewpoints. The only difference between them lay in the fact that the Delegation of the European Union placed emphasis on the condition mentioned in paragraph 70 above : “if the national regulations so require”.

73. The Chairperson invited Members whose countries had drawn up regulatory instruments dealing with the costs and charges for delivery of assists to share their experiences from the national perspective with other Members.

Conclusion

74. The Technical Committee agreed to continue its examination of this question at its 48th Session, on the basis of a new draft Commentary, which would take account of comments by some Members during this 47th Session.

- (c) Sale for Export to the Country of Importation under Article 1 : Request by Canada

Doc. VT1146E1a and VT11561a

Background

75. The Chairperson introduced this case submitted by Canada which the Technical Committee had agreed to discuss as a technical question at the 45th Session. The case concerns establishing the sale for export in a particular transaction. The text of this question was updated following discussions at the 46th session and circulated in the Annex to Doc. VT1146E1a. In response, written comments were submitted by China which sought further clarification from Canada on certain facts of the case.
76. The Chairperson then gave the floor to the Delegate of Canada to provide further background and respond to the questions raised by Members.

Summary of discussion

77. The Delegate of Canada clarified that XCO created ICO for the sole purpose of supplying goods to retail stores. In response to questions raised by China, he clarified that although money is paid by buyers into ICO's bank account, only XCO withdraws from this account. In his opinion, as ICO is not involved in ordering or the selling process, it is not the true buyer.
78. The Delegate of Canada added that there was only one bona fide sale for export; no other sales contract exists. Although two transactions have taken place, the second transaction does not trigger a sale for export. In response to a comment that ICO acts like a selling agent, he pointed out that selling agents can be paid a commission or receive a salary. The Observer from the ICC agreed with this.
79. Discussions took place regarding the wording of the question in the document (Issue for Determination). As some Members consider there is only one sale, it would not be appropriate to ask the question: "which sale is the relevant sale ...?"
80. No conclusion was reached on whether the amount of 10000 or 12000 should be the basis for the transaction value. Some Members suggested that discussion moved on to the analysis section of the document before trying to reach a consensus on the conclusion.
81. Some drafting improvements were made to the text in the course of the discussions.
82. In summing up, the Chairperson encouraged Members to consider whether any further clarification was needed or to propose new ideas to improve the text and reach a conclusion.

Conclusion

83. The Technical Committee agreed to work on the text further with the aim of arriving at a consensus on the case at the next Session.

(d) Royalties and licence fees under Article 8.1 (c) of the Agreement : Request by Uruguay

Docs. VT1147E1a and VT1157E1a

Background

84. The Chairperson introduced this case submitted by Uruguay which the Technical Committee had agreed to discuss as a technical question at this Session. The question refers to the payment of royalties and licence fees, calculated by reference to the sales price of products manufactured in the country of importation from imported inputs, and their relevance to the Customs value of the imported inputs necessary for the manufacture of the finished goods.
85. During the discussions at the 46th Session, some delegates requested more information to confirm whether or not the locally sourced ingredients were patented and whether the manufacturing process involved the use of patented processes.
86. During the intersession, the Secretariat and Uruguay worked together to modify the draft Advisory Opinion taking into account comments made by Members. The revised draft Advisory Opinion is reproduced in Annex I to Doc. VT1147E1a.

Discussion

87. The Delegate of Uruguay started by referring to Advisory Opinion 4.4 and the second example contained in Advisory Opinion 4.6 which describes situations which are similar to this question. In response to Members' comments in Annexes I to III of Doc. VT1157E1a, he suggested simplifying the draft Advisory Opinion to be more consistent with Advisory Opinion 4.4 and 4.6 and also that there is essentially no change in essence of the imported inputs when it is manufactured into the final product. He also responded to the question of whether the Technical Committee should be dealing with quantitative aspects of royalty payments and that the royalty payment should be apportioned as it is fair to do so in response to another written comment which suggests that the whole royalty payment should be included in the price paid or payable.
88. One delegate commented that to her understanding the question consists of two rights: a) the right to use the patented concentrate; and b) the right to use the trademark in the final product. She also commented that only the rights to use the patented concentrate are related to the imported goods and agreed with one of the written comments that the conditions for including an adjustment under Article 8.1 (c) should be mentioned in the draft Advisory Opinion. She also shared on how to determine whether a royalty payment on a trademark should be considered as related to the imported goods according to her country's national legislation. Therefore, according to the facts of the case, the right to use the trademark in the final product should not be added to the price paid or payable according to her country's national legislation and that the royalty payment has to be apportioned

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accordingly between the right to use the patented concentrate and the right to use the trademark in the final product.

89. Some delegates were of the view that the whole royalty payment should be included in the price paid or payable as the importer would not be able to import the patented concentrate if it does not pay the royalty payment which would then make it unable to manufacture the final product. There were also opposing views from other delegates who felt that the royalty payment should be apportioned as there were local ingredients that were added during the manufacturing process.
90. The Observer from the ICC commented that the Agreement does not talk about the apportionment of royalties and, in commercial reality, companies do not want to undertake any apportionment process as it will be a difficult and challenging process.
91. The Delegate of Uruguay suggested redrafting the document to include the two views that are discussed during this Session: a) the royalty payment should be included as a whole in the price paid or payable; and b) the royalty payment should be apportioned according to the percentage in which the imported patented concentrate consists of in the final product.

Conclusion

92. The Technical Committee agreed that Uruguay will work with the Secretariat to produce an updated document taking into account comments by Members for discussion at the next Session.

(e) Royalties and licence fees under Article 8.1 (c) of the Agreement (Royalty – Income Tax) : Request by China

Docs. VT1148E1a and VT1158E1a

Background

93. The Chairperson introduced this question submitted by China which the Technical Committee had agreed to discuss as a Specific Technical Question at this Session. This question relates to royalties and licence fees under Article 8.1 (c) of the Agreement (Royalty – Income Tax).
94. During the discussions at the 46th Session, one delegate suggested a third opinion, i.e. that the withholding tax paid on the royalty payment should not form part of the Customs value as it is a domestic tax, but should be included in the analysis of the case.

95. Following the 46th Session, the Secretariat worked with China to adjust the text reflecting the third opinion as suggested. The updated text is reproduced in Annex I to Doc. VT1148E1a.

Discussion

96. The Delegate of China clarified that that the income tax is established by law in the country of importation. The taxpayer in this case is the licensor and the importer is the withholding agent. The question here is whether the income tax paid to the tax authority by the importer on behalf of the licensor should form part of the Customs value. She commented that in the process of discussing this case China did consider the possibility of the proposed third option but did not find any strong reasons to support it. The income tax in this case is not based on a sales contract but is based on an obligation of the license agreement between the licensor and licensee on two conditions: a) payment of the royalties; and b) payment of the income tax in which the obligation has been transferred from the licensor to the licensee. She also mentioned that based on the understanding of paragraph 12 of Advisory Opinion 4.16, domestic taxes based on royalties should not be included in the Interpretative Note to Article 1. She agreed with the written comments made by the Delegate of Canada to amend the text to properly frame and distinguish the nuances between the three opinions which she feels will focus the discussions on the type of payment that this income tax is.
97. One delegate pointed out that paragraph 3 (c) of Interpretative Note to Article 1 relates to domestic taxes levied on the import of goods or based on royalties for intellectual property rights or trademarks. Therefore, it is useful to include the third opinion as a basis for discussion by the Technical Committee. In his view, this income tax payment is not an obligation between the buyer and the seller.
98. There are some delegates who see the third opinion as not applicable in this question as paragraph 12 of Advisory Opinion 4.16 states that paragraph 3 (c) of Interpretative Note to Article 1 states that it does not apply to taxes which may apply to royalty income. Therefore, the third opinion is inconsistent with Advisory Opinion 4.16 and paragraph 3 (c) of Interpretative Note to Article 1.
99. On the Chairperson's suggestion for response from the Technical Committee to the question of which of the three options it thinks is applicable and the reasons for it, some delegates commented that the income tax paid on the royalty should be included in the price paid or payable. However, there is no consensus on whether this should be included as the price paid or payable under Article 1 or as an adjustment under Article 8.1 (c) of the Agreement.

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100. The Chairperson asked the Technical Committee to provide response and comments to the Secretariat in order to draft a new document for discussions at the next Session.

Conclusion

101. The Technical Committee agreed that China will work with the Secretariat to produce an updated document, taking into account the discussion and comments by Members during this Session for discussion at the next Session.

Agenda Item VI : QUESTIONS RAISED DURING THE INTERSESSION

- (a) Valuation of imported chip cards relating to transportation service and tourist admission tickets : Request by China

Doc. VT 1149E1a

Background

102. The Chairperson introduced the question related to the valuation of imported chip cards and admission tickets which was submitted by China during the intersession before the 46th Session and reminded the Technical Committee of the decision it took at the 46th Session. The question was considered by the Technical Committee under the item "Questions raised during the intersession" of the 46th Agenda. As there was no consensus to include the question as a Specific Technical Question, the Technical Committee decided to maintain the question under the same agenda item to be considered by the Technical Committee at the 47th Session. The text of the case including the facts of the transaction, the analysis and a conclusion submitted by China are reproduced in the Annex to Doc. VT1149E1a.

Discussion

103. The Delegate of China presented the facts of the case as amended in Doc. VT1149E1a and the issues involved. She acknowledged that the same rationale as applied in Advisory Opinion 22.1 has been used in the analysis of the question but the facts of Advisory Opinion 22.1 are slightly different from this question. They may be similar but are not identical. Advisory Opinion 22.1 refers to the provisions of services whereas this question deals with goods, that is cards and tickets which are sold for a price agreed under a contract and paid by the buyer to the seller.

104. One delegate reiterated her previous comments on this question that the rationale used by China in its analysis is the same as in Advisory Opinion 22.1 and there is no need for a new instrument to settle this question.

Conclusion

105. There was no support for the question to be raised as a Specific Technical Question by the Technical Committee.

(b) Commissions payable under Promotion and Marketing Service Agreements : Request by Uruguay

Doc. VT 1151E1a

Background

106. The Chairperson introduced this question submitted by Uruguay during the intersession prior to the 47th Session of the Technical Committee and invited the Delegate of Uruguay to present the question, as set out in the Annex to Doc. VT1151E1a, for consideration by the Technical Committee.

Discussion

107. The Delegate of Uruguay used the graphical presentation to provide detailed information on this four party scenario, the issue of which is the treatment of commissions payable under a Promotion and Marketing Services Agreement. The four parties involved are the buyer of inputs/producer of finished product, the promoter, the supplier(s) of inputs and the final customer who were said to belong to the same group of companies.
108. A couple of delegates commented that this is a complex case and asked for additional clarification with respect to the relationship between the parties and the nature of the payments. The Delegate of Uruguay clarified that the prices are at arm length and have not been influenced by the relationship and the payments made by the producer to the promoter are commissions for the services provided by the promoter and are neither royalties/licence fees nor franchise fees. No brokerage or agency agreements exist between the promoter and the producer and the promoter is located in a tax haven country.
109. One delegate, looking at questions with recurring themes such as royalties, licence fees and contracts considered by the Technical Committee, asked whether it would not be useful to identify a leading thread in those cases that could be identical to cases already

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dealt with by the Technical Committee and which are similar in substance in order to find a common principle as a basis for solving issues instead of examining at each time a variation in these themes. One observer noted that there is not much commercial reality in this question and the facts do not disclose the reasons behind the specific payments by the buyer/producer to the promoter and shared the same view as one delegate in relation to the redundant information contained in the facts of the case.

110. The Chairperson agreed with the comments of one delegate who viewed that, at this stage, the Technical Committee should not examine the question in detail and should accept the question raised during the intersession as a specific technical question. However the Chairperson added that prior to its acceptance as a specific technical question, the Technical Committee must be satisfied that there are no instruments of the Technical Committee that deal with the issues raised therein.
111. After discussion, the Technical Committee agreed to examine this question as a Specific Technical Question and the Delegate of Uruguay agreed to work with the Secretariat during the intersession to prepare a new document taking into consideration the comments/ observations made by the delegates.

Conclusion

112. The question will be included as a Specific Technical Question in the Agenda of the 48th Session for examination by the Technical Committee.

(c) Treatment applicable to a situation in which the price depends on the own trademark of the buyer : Request by Uruguay

Doc. VT1152E1a

Introduction

113. The Chairperson introduced the question raised by Uruguay during the intersession and invited the Delegate of Uruguay to present the question.

Discussion

114. The Delegate of Uruguay stated that this question refers to the determination of Customs value on importing a product bearing the importer's own trademark when, at the same time, the same product bearing the exporter's trademark is presented for importation at
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a different price. He commented that this is a common scenario and the problem is whether the two different declared prices can be accepted by Customs. He has also provided two possibilities of determining the Customs value in the Annex to Doc. VT1152E1a.

115. One delegate sought clarification on the second possibility mentioned in the text submitted, i.e. that Article 1 cannot be applied to determine the Customs value. He sought additional information on what aspect of the trademark means it does not meet the condition under the provisions of Article 1.1 (b) of the Agreement as mentioned in the text.

116. This was supported by another delegate who also commented that she supported the inclusion of this question as a Specific Technical Question at the next Session. However, she felt that too much background information was provided and that amendments had to be made to the text to narrow down the scope of discussions.

Conclusion

117. The Technical Committee agreed that this case would be considered as a Specific Technical Question at its next Session.

(d) Valuation of imported goods sold at discounted prices to accredited buyers related to the seller : Request by Egypt

Doc. VT1160E1a

Introduction

118. The Chairperson introduced this case submitted by Egypt. The text of the case and additional information provided by Egypt to clarify the facts of the transaction, were produced in Annexes I and II to Doc. VT1160E1a.

119. The question refers to the valuation of imported goods for which prices differ depending on who is the ultimate customer in the country of importation. The imported goods are sold by the parent company only to its accredited companies in the country of importation. The invoiced import prices vary from 10 % up to 80 % of the export pricelist. The issue highlights the challenges Member Administrations are facing in applying the provisions of the Agreement and how to deal with imports where such discounts are offered and the relevance of prices sourced for comparison purposes.

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120. Before the discussion, the Delegate of Egypt introduced the case and the facts of the transaction, further clarifying that the companies in question are related, according to the provisions of Article 15 (4) of the Agreement. Furthermore, he emphasized the subsidiary's exclusive rights to import the goods. The Egyptian Administration sought additional documentation unsuccessfully given that, according to the importer's response, such documentation is strictly confidential. Since the importer did not provide the requested documents, it was not possible to apply Articles 1 to 6 of the Agreement. At the end, the Technical Committee took note of the Delegate's proposal regarding draft guidelines on the application of Article 7 of the Agreement.

Discussion

121. During the discussion, according to the recitation of facts, one observer pointed out that this case is a predatory dumping case whereby related parties import and declare low values in order to capture market share. In his opinion, that is the subject of unfair trade noting that the Committee earlier on had been called upon to issue an instrument Commentary 3.1 which directly addresses this question. One delegate agreed with the previous opinion, while some other delegates considered that this was not a dumping case, taking into account the fact that dumping relates to national production in the country of importation. On the other hand, the Committee was able to hear arguments in favour of proper application of Article 7 of the Agreement.

Conclusion

122. The Technical Committee agreed that this case would be considered as a Specific Technical Question at its next Session.

Agenda Item VII : OTHER BUSINESS

- (a) Review of working methods for dealing with technical questions of the Technical Committee

Introduction

123. After giving a brief introduction of the issue concerning the working methods for dealing with technical questions of the Technical Committee which initially has been raised under the

item “Other business” by the EU at the 46th Session, the Chairperson gave the floor to the EU Delegate. The Delegate thanked the Secretariat for preparing the working document and its review in the paper which he found to be helpful in highlighting the points raised by the EU on this important and fundamental issue. He also felt that it is important that the Technical Committee keeps track with new trends and developments in trade. At this time, the EU Delegate preferred to hear the comments and opinions from the other delegates.

Discussion

124. One delegate thanked the EU for raising this issue as it has given the Technical Committee the opportunity to think and decide how it could modernize and revise the way it operates. Referring to the proposal in paragraph 5 of Doc. VT1050E1a, he, supported by other delegates, welcomed the proposal to review existing instruments which had been issued decades back when the conditions and level of advancement were not the same as are prevailing now. He recalled that, in the past, there existed an item on the agenda dedicated to the review of the Conspectus and supported the proposal to include such an item in the agenda.
125. Another delegate questioned the procedures to be followed at national level before a question is submitted for consideration by the Technical Committee and asked whether all related information should be made available to the Technical Committee. Though he appreciated the way the Technical Committee is being conducted he suggested that together with the inputs of Members it could be improved. The delegate opined that with the knowledge gained on the continuing challenges for the implementation of the WTO Customs Valuation Agreement, the Technical Committee should relook at some of its articles and other relevant Agreements.
126. The Secretariat reminded delegates that the Technical Committee would be looking at proposals other than those changes that were introduced into the working procedures adopted in 2016, which already enabled the Technical Committee to work in a more flexible manner. These included improvements in communication channels and use of the CLiKC! platform.
127. With reference to the usefulness of the Valuation Control Handbook which was last updated in 2007, one delegate said that the reference to the use of the freight charges mentioned on Airway Bill should be amended and updated.
128. One delegate stated that working methods and mechanisms are fundamental to the Technical Committee and there are many proposals that were made in Doc. VT1150E1a

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which would require more time to study. She suggested that a step by step approach be developed to cover every detail of the document.

Conclusion

129. Delegates were in favour of maintaining the question on the agenda of the next Session so as to give more time to reflect on the EU's proposals and the comments made at the Technical Committee. Inputs would be invited from Members during the intersession.

(b) Update on Transfer Pricing / Base Erosion and Profit Shifting by Observer from OECD

Background

130. At the 47th Session, under Agenda Item VII, the Technical Committee provided a presentation on "Update on the Task Force on the Digital Economy" made by the Observer from the OECD.

Presentation by the OECD

131. The Observer from the OECD began his presentation with an overview of OECD/G20 BEPS Project, with the 15 actions set out to equip governments with domestic and international instruments to address tax avoidance noting that 122 countries and jurisdictions are now participating in the inclusive framework on BEPS on an equal footing. She also pointed out their significant progress which refers to "Guidance on application of transactional profit split method" finalized in June this year.

132. Furthermore, the Observer referred to the BEPS Action 1 Interim Report which addressed the tax challenges of the digital economy such as analysis of business models and value creation, implementation and impact, stocktake of unilateral measures adopted by countries, long-term solutions, interim measures, impact of digitalization on other aspects of the tax system with conclusion and further steps. She introduced the Technical Committee to the common features of highly digitalised business models and their tax implications, such as:

- Cross-jurisdictional scale without mass;
- Reliance on intangible assets; and

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- Data and user participation.

133. Typical international income tax systems rely on two concepts: rules that determine the jurisdiction to tax a non-resident enterprise and profit allocation and rules that determine the relevant share of the profits that will be subject to taxation. Members of the Inclusive Framework have agreed to undertake a coherent and concurrent review of the profit allocation and nexus rules and to work towards a consensus-based solution by 2020.
134. The Interim Report has a section which addresses some of the positive aspects from digitalization of economy and some opportunities for the tax administration, particularly in terms of reduction in cash economies through use of digitalized platforms. Also, digitalization affects the broader tax system, beyond the core international rules, for example how gig and sharing economies impact on taxable status, the need to improve taxpayer education, opportunities for tax authorities to use digital tools as well as the appropriate tax treatment and transparency risks raised by crypto-currencies.
135. She concluded her presentation with the further timetable for delivery regarding this topic. In terms of the path ahead the OECD is currently at the stage of assessing various proposals.
136. One delegate sought additional information on possible cooperation with the WCO and was advised that the OECD and the WCO have a programme of practical cooperation to encourage Customs and Tax administrations to work more closely together, despite their different standards which have to be applied in everyday activities. The OECD and WCO have run a number of joint events which involve bringing together Customs and Tax officials to discuss various things like transfer pricing with the purpose of understanding each other's methodologies and how they can assist one another. Other delegates were interested in transfer pricing and related parties within the digital economy and how developing economies are dealing with digital taxation and digitalization in general while some questions were related to cross-border digital taxation. The Technical Committee underlined the importance of strengthening Customs-Tax cooperation mentioning the WCO Guidelines for Strengthening Cooperation and the Exchanging of Information between Customs and Tax Authorities at the National Level.

Conclusion

137. The Technical Committee took note of the presentation by the OECD.

Agenda Item VIII : PROGRAMME OF FUTURE WORK

138. The Chairperson invited the Secretariat to present the programme of future work. The Secretariat advised that the following items would be included on the Agenda for the 48th Session:

I. Adoption of Agenda/Suggested programme

II. Adoption of the Technical Committee's 47th Session Report

III. Reports on intersessional developments

- Director's Report*
- WTO Committee on Customs Valuation oral report*

IV. Technical assistance, capacity building and current issues

- Report on technical assistance/capacity building activities undertaken by the Secretariat and Members*
- Progress reports from Members' on practical application of the WTO Valuation Agreement*
- Revenue Package*

V. Specific technical questions

- 1. Valuation of imported goods purchased in "Flash Sales" : submitted by Mauritius*
- 2. Interpretation of the value of adjustments under Article 8.1 (b) of the Agreement : Request by Uruguay*
- 3. Sale for Export to the Country of Importation under Article 1 : Request by Canada*
- 4. Royalties and licence fees under Article 8.1 (c) of the Agreement : Request by Uruguay*
- 5. Royalties and licence fees under Article 8.1 (c) of the Agreement (Royalty-Income Tax) : Request by China*
- 6. Commissions payable under Promotion and Marketing Service Agreements : Request by Uruguay*
- 7. Treatment applicable to a situation in which the price depends on the own trademark of the buyer : Request by Uruguay*
- 8. Valuation of imported goods sold at discounted prices to accredited buyers*

related to the seller : Request by Egypt

- VI. Questions raised during the intersession (as appropriate)**
- VII. Other business**
- *Review of working methods for dealing with technical questions of the Technical Committee*
- VIII. Elections**
- IX. Programme of future work**
- X. Dates of next meeting**

Agenda Item IX : DATES OF NEXT MEETING

139. The Secretariat announced that the 48th Session of the Technical Committee on Customs Valuation has been provisionally scheduled for 13 – 17 May 2019.

Concluding Remarks

140. The Delegates of EU and China, on behalf of the Technical Committee, thanked Mr. Ian Cremer and Mr. Benson Lim, who would be leaving the Secretariat soon, for their contribution, dedication and support to the work of the Committee. The Director joined with these Delegates and added the good qualities and personalities of both staffs and thanked Mr. Cremer for his support received not only in the valuation-related work but also beyond this area. Mr. Cremer, he said, has led the valuation team excellently and was the backbone of WCO work on revenue collection and the Revenue Package.
141. The Director also thanked Mr. Marco Nivolo from the EU and Mr. A. Alarcon Canones from Spain who have attended their last meeting with the Technical Committee for their contribution. Mr. Canones who is retiring after 45 years of service has been regularly attending the committees of the Tariff and Trade Affairs Directorate.

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142. The Chairperson and the Director thanked the delegates, Observers, the Secretariat for their efforts during this Session before the Chairperson formally declared the 47th Session closed.

J. BIRKHOFF,
Chairperson.

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Annex B to Doc. VT1161E1a
(VT/47/Oct. 2018)

Mme I. BRANCO

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**Oral report by the WTO
to the 47th Session of the Technical Committee on Customs Valuation**

22-26 October

I have a shorter report than usual this morning, because there has been no formal meeting of WTO Committee on the CVA since the 46th session of the TCCV and so I do not have updates on the usual range of activities of the Committee. However, the Committee has been very active in the intervening period on the issue of assisting least-developed country Members to implement the Customs Valuation Agreement and I would like to update you on those developments.

Notifications

The Committee on Customs Valuation reviews four different types of notifications, which include: Members' laws and regulations; Members' responses to a check list of issues related to the legislation; the Members' date of implementation of the Decision on Interest Charges; and, whether Members apply paragraph 2 of the Decision on the "Valuation of Carrier Media Bearing Software for Data Processing Equipment". The status of these notifications is systematically compiled in a report, the most recent version being document G/VAL/W/232/Rev.8.

There have been no notifications submitted to the Committee since in the period under review. The compliance remains that 99¹ Members have notified their national legislation on customs valuation and 36 have not yet done so. (see document G/VAL/W/232/Rev.8).

As always, 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.

Technical assistance

I reported at the 46th Session about the discussion in the Committee at its April meeting following the request made by Senegal and Togo at that meeting for technical assistance to help them overcome challenges in implementing the Customs Valuation Agreement. Since then, Members have had a number of meetings to discuss how the Committee can best

respond to the request, under the guidance of the Chairperson for 2018-2019, Mr Yuichiro OKUMURA (Japan).

The outcome is that Members have agreed to continue their work on this issue along two approaches:

- The Committee will hold an information/experience-sharing workshop in Spring next year at which there will be an exchange between the challenges being experienced by LDCs and the experience of other Members in addressing such challenges; and,
- the Committee will work to highlight the existence of a strong linkage between the CVA and the TFA, and the necessity and benefits for Members to work on this linkage in order to strengthen the implementation of both agreements.

During the consultation process over the summer, some LDC members provided an indicative list of the main challenges that they face when implementing the Customs Valuation Agreement and those challenges will form the basis of the experience-sharing session. The Committee recognised that a number of the challenges identified would be covered by some of the provisions of the Trade Facilitation Agreement.

At the last meeting of the WTO Committee on Trade Facilitation, the Chair of the Committee on Customs Valuation made a presentation on the linkage between the CVA and the TFA. He took the opportunity to remind Members that were still working on specifying exactly the type of TA that they required in order to implement the TFA of the importance of having a solid, functioning valuation system as a vital trade facilitation measure.
