



TECHNICAL COMMITTEE ON
CUSTOMS VALUATION

-
47th Session
-

VT1144E1a
(+ Annex)

O. Fr.

Brussels, 9 July 2018.

SPECIFIC TECHNICAL QUESTIONS

VALUATION OF IMPORTED GOODS PURCHASED

IN "FLASH SALES"

Request by Mauritius

(Item V (a) on the Agenda)

Reference documents :

VT1062E1a (TCCV/43)	VT1132E1a (TCCV/46)
VT1075E1c (TCCV/43 – Report)	VT1137E1b (TCCV/46 – Draft Report)
VT1087E1a (TCCV/44)	
VT1098E1b (TCCV/44 – Draft Report)	
VT1107E1a (TCCV/45)	
VT1115E1a (TCCV/45)	
VT1117E1b (TCCV/45 – Draft Report)	
VT1125E1a (TCCV/46)	

I. BACKGROUND

1. Following the discussions held at its 46th Session, the Technical Committee agreed 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 the price of \$US 11.99 could be used to determine the transaction value of identical or similar goods for which there was no transaction value.
2. At the Chairperson's request, the Technical Committee agreed to draw up, with the Secretariat's assistance, a draft Advisory Opinion containing the information and views expressed by the Technical Committee on this issue of the customs valuation of imported goods purchased during "flash sales" by means of e-commerce.

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II. SECRETARIAT COMMENTS

3. The Secretariat has drawn up a draft Advisory Opinion for examination by the Technical Committee, taking into consideration the comments and suggestions made by Members. That draft Advisory Opinion is set out in the Annex to this document.
4. Bearing in mind the Technical Committee's failure to reach a consensus on the second key question at issue, the Secretariat invites Members to continue their examination of paragraph 2. (c) – placed in square brackets – of the draft Advisory Opinion.

III. CONCLUSION

5. Members are invited to examine this draft Advisory Opinion and to send their written comments to the Secretariat by **7 September 2018**, preferably by e-mail (e-mail address : valuation@wcoomd.org). Comments sent in response to this document will be published and circulated to Members of the Technical Committee for examination at its 47th Session.

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Draft Advisory Opinion

Valuation of imported goods purchased in "flash sales"

1. The question raised was whether Customs should regard the highly discounted price for imported goods purchased electronically during "flash sales" as the basis for customs valuation under Article 1 of the Agreement. If so, the second question was whether Customs should agree to this highly discounted price being used to determine the transaction value of identical or similar goods for which there is no transaction value.
2. The Technical Committee on Customs Valuation has set forth the following views :
 - (a) Under the Agreement, the customs value of the imported goods "should be based on simple and equitable criteria consistent with commercial practices ..." Flash sales are regarded as a recent commercial practice. They entail promotional sales offered in the short term and at highly discounted prices to attract potential purchasers. Flash sales can be conducted on the traditional market or through e-commerce. The Agreement continues to be the only international legislative benchmark for customs valuation. Its provisions must be applied in respect of imported goods purchased both on the traditional market and through e-commerce.
 - (b) Given that, under Article 1 of the Agreement, the basis for the transaction value is the price actually paid or payable for the imported goods, the discounted price for imported goods purchased during a "flash sale" is accepted as the basis for customs valuation. Accordingly, the customs value of goods purchased during a "flash sale" is the transaction value of the goods in question, provided the conditions of application laid down in Article 1.1 (a) to (d) are met.
 - (c) [The discounted price of imported goods purchased during a "flash sale" will be used for the purpose of applying either the transaction value of identical goods or the transaction value of similar goods laid down in Articles 2 and 3 respectively of the Agreement only if the imported goods purchased during a given "flash sale" fall within the definition set out in Article 15.2 of the Agreement and all the requirements under Article 2.1 (a) and (b) or under Article 3.1 (a) and (b) are met.]
 - (d) Where national law so provides, the customs value will be adjusted, as necessary, in accordance with Article 8.2 of the Agreement.
