



TECHNICAL COMMITTEE
ON CUSTOMS VALUATION

VT1156E1a
(+Annex)

-
47th Session
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O. Eng.

Brussels, 29 September 2018.

SPECIFIC TECHNICAL QUESTIONS

SALE FOR EXPORT TO THE COUNTRY OF IMPORTATION UNDER ARTICLE 1 : SUBMITTED BY CANADA

(Item V (c) on the Agenda)

Reference documents :

VT1127E1a (TCCV/46)
VT1134E1a (TCCV/46)

VT1137E1c (TCCV/46 - draft Report)
VT1146E1a (TCCV/47)

I. BACKGROUND

1. Following the 46th Session, the Secretariat worked with Canada to modify the text of this case in order to address Members' questions and comments made at the last Session. The updated text was reproduced in the Annex to Doc. VT1146E1a.
2. The Secretariat invited Members to examine the revised text and submit written comments accordingly.

II. MEMBER COMMENTS

3. In response to working document VT1146E1a, the Administration of China submitted written comments which are set out in the Annex to this document. China raises some further comments and questions on the latest version of the text.

III. CONCLUSION

4. The Technical Committee is invited to examine this issue in the light of the written comments submitted by China, and the text of the draft case as reproduced in the Annex to Doc. VT1146E1a, in readiness to discuss the issue further at the 47th Session of the Technical Committee.

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COMMENTS BY CHINA

China Customs Administration would like to thank the Secretariat and Canadian Customs for preparing the working documents. Based on the discussion at the 46th Session, it would be necessary to clarify the functions that ICO performed as well as the whole transaction process of the imported goods, so as to answer the question raised in the case.

With regard to the most recent version of the case, we still have some questions:

1. Did the retailers purchase the imported goods from XCO or ICO? As stated in Para.7, “all purchase orders are sent electronically by the retailers of country I through XCO’s computer system”. Nevertheless, the fact that orders are sent electronically by the retailers through XCO’s computer system does not necessarily mean the seller must be XCO.
2. Is ICO a distributor or selling agent? Para.1 states that XCO is the exclusive distributor for territory Y which includes countries I and X; but according to Para 5, “ICO uses sales agents in order to promote its products to different retailers in country I”, it seems that ICO also performs distribution. Is there any agreement between XCO and ICO in which ICO was authorized by XCO to act as a distributor or a selling agent to assist in selling the imported goods in country I? ICC gave a presentation on business practice related to the case at last session, pointing out the difference between an agent and a limited risk distributor. Could Canada clarify whether ICO is a distributor or selling agent based on the information provided by ICC?
3. Paragraph 17 of the case indicates, “ICO’s sales agents and employees are not involved in the procurement process for goods”, while paragraph 10 of facts of the case states “ICO’s employees at the warehouse are responsible for delivery logistics within country I, and are never involved in the ordering of the goods from XCO”. It seems that two statements are inconsistent. It would be helpful to have further clarification from Canada.
4. As mentioned in the facts of transaction, XCO withdrew the 10,000 c.u. directly from ICO’s bank account for the payment of the imported goods; the balance of the bank account is used by XCO to pay ICO’s general expenses, and the remaining profit is retained in ICO’s bank account. Did the remaining profit belong to XCO or ICO? If it is ICO’s profit, does it make sense that ICO does not have access to this account?
5. China Customs Administration would like to thank the Secretariat and Canadian Customs again for their efforts on this case and looks forward to discussing the case at the forthcoming session.