



TECHNICAL COMMITTEE ON
CUSTOMS VALUATION

VT1160E1a
(+ Annexes)

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47th Session
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O. Eng.

Brussels, 29 September 2018.

QUESTION RAISED DURING THE INTERSESSION

VALUATION OF IMPORTED GOODS SOLD AT DISCOUNTED PRICES TO ACCREDITED
BUYERS RELATED TO THE SELLER
REQUEST BY EGYPT

(Item VI (d) on the Agenda)

I. BACKGROUND

1. During the intersession, Egypt submitted a question for consideration by the Technical Committee.
2. 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.
3. 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.
4. The text of the case is produced in Annex I to this document. In consultation with the Secretariat, Egypt provided additional information to clarify the facts of the transaction. The additional information is reproduced in Annex II to this document.

II. SECRETARIAT COMMENTS

5. The question highlights the challenges Member Administrations are facing in applying the provisions of the Agreement. The issue is about how to deal with imports where such discounts are offered and the relevance of prices sourced for comparison purposes.
6. In addition to the issue relating to discounts, the Secretariat notes that there are other issues that are raised in this question including the issue of relationship between the seller and the accredited buyer which could impact on the examination of the question. Egypt could precise whether they are related according to the provisions of Article 15(4) of the Agreement. Moreover, there is also the question of whether the high percentage of discount which is granted by the seller to the accredited buyer when the imported goods are resold solely to the

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government of the country of importation could be considered as a sale or price which is subject to some condition or consideration for which a value cannot be determined as provided in Article 1.1(b). This situation has not been examined by the Technical Committee previously.

7. There are several instruments issued by the Technical Committee that deal with discounts, such as cash discount, quantity discount or other types. For example, in Advisory Opinion 5.1, the Technical Committee expressed the view that the transaction value under Article 1 of the Agreement is the price actually paid for the imported goods and that the cash discount should be allowed where the buyer has availed himself of the discount prior to the valuation of the imported goods.
8. Members may also refer to the Guidelines on the Development and Use of a National Valuation Database as a Risk Assessment Tool, developed by the Technical Committee, when deciding on the question.

III. CONCLUSION

9. The Technical Committee is invited to consider the question at the 47th Session and determine whether it wishes to examine this issue as a Specific Technical Question at a future Session.

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TITLE: Valuation of imported goods sold at discounted prices to accredited buyers related to the seller

SUBMITTED BY: Egypt

Facts of Transaction

1. The parent company has an export price list for its products and on demand of this list, the representatives of the company in Egypt informed that it was not possible due to the immense number of items it contains and for non-disclosure to competing companies.
2. The value in the invoices for the items subject to importation represents 10% of the value specified in the price list of the parent company which means that the discount given by the parent company may reach 90% when supplying these items to governmental agencies in Egypt. The value in the invoices for the items subject to importation represents 80% of the prices of the parent company's list and the discount given by the parent company may reach 20% when supplying these items to the private sector in Egypt.
3. The discount percentage referred to above is due to the desire of the parent company abroad to exist in the Egyptian market with the largest possible share at the expense of the competing companies working in the same field.
4. Importation from the parent companies abroad is limited to their accredited companies in Egypt and importation of these items is not permitted from other importers. Therefore, in case of Customs doubt of prices and it is not possible to find prices of identical items of other importers that enable the Customs to apply alternative methods.
5. The existence of sites on the international information network announces detailed price lists for these items, specifying the brand, value and all the properties and capabilities of items accurately.

Analysis

6. When releasing the contents of these consignments Customs is to be guided by these prices announced on the international information Network after confirming the items received with the invoices of the imported consignments in terms of (brand, item, part numbers, capability.....).
7. A percentage of 50% of these announced prices is to be deducted and by comparing the accepted value after the deduction referred to with the value stated in the invoice, the following comes out:
 - The accepted value in some cases exceeds the value stated in the invoices
 - The value in the invoices approximately equals the accepted value
 - In some other cases, the value after deduction is less than the value stated in the invoices.
8. The importing companies in Egypt and the affiliates to the parent companies abroad opinion are accepting the value stated in the invoices.
9. While the Egyptian Customs opinion is that in light of discounts ranging between 20:90% to be granted according to the end user (governmental – private sector), meaning

that the value stated in the invoices represents a percentage of 10:80% of the real value stated in the price list of the parent companies abroad, and they don't submit a price list or transaction contract.

Conclusion

10. Therefore, we are to be guided by the prices announced on the international information network for the same items, part numbers properties and capabilities accurately.

Issue for determination

11. Advise how to deal with this case.

References

WTO Agreement for Customs Valuation, Articles 1 to 8 and their Notes.

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Valuation of imported goods sold at discounted prices to accredited buyers related to the seller.

Additional information provided by Egypt to clarify the facts of the transaction

- 1) The importing company is one of the accredited companies of the parent company with authorization to market the products of the parent company in the Egyptian market.
 - 2) Selling the products to the Egyptian government is always carried out through public tenders. The importing company communicate the tender to the parent company which accordingly decide on the pricing and given discounts to support the position of its accredited company against other competitors in the bidding.
 - 3) Price list was not given by the importing company on the ground of technical difficulties. The Customs authority was able to check the prices from the web site of the parent company, all the prices, products with all specifications were available. The importing company, on the other hand challenged these prices found on the web site as unrealistic prices.
 - 4) Products are not identical as they are containing different components but they are still being sold in the same tender through competitors.
 - 5) The Egyptian Customs is adopting valuation methods in conformity with The WTO Valuation Agreement, since it's not possible to apply valuation methods from 1 to 5, Customs authority had to apply other flexible method to acquire the prices from the exporting country through the web site of the exporting company.
 - 6) The Egyptian Customs can only approve acceptable/ considerable discounts, the selling price should not be less the price in the exporting country after deducting all costs related to revenues and internal taxes.
 - 7) Pricing policy is determined by the parent company who decides on the selling prices for each market.
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