

**CHINA'S TRANSITIONAL REVIEW MECHANISM**

The following communication, dated 25 September 2002, has been received from the Permanent Delegation of the European Commission.

Please find enclosed the European Community's TRM contribution on Customs Valuation for distribution to Members.

The EC welcomes China's effort to implement its commitments under its Protocol of Accession to the WTO, more specifically on the issue of customs valuation and preshipment inspection. The EC is very pleased that China stated that it would fully apply without delay the provisions of the WTO Agreements on Customs Valuation and Preshipment Inspection.

Transparency

As for customs valuation, the EC took note of the recent circulation of China's notification of legislation and responses to the Checklist of Issues in documents G/VAL/N/1/CHN/1 and G/VAL/N/2/CHN/1 (5 July 2002). The EC assumes that these provisions have been published and made generally available, in accordance with the principle of transparency and the requirements of Article 12 of the Customs Valuation Agreement.

Transposition

We appreciate China's prompt translation of the texts transposing the commitments entered into, and as regards the customs valuation legislation notified by China (document G/VAL/N/1/CHN/1) we would have the following questions:

1. Article 3 of the Chinese legislation refers to the costs of insurance and "associated costs incurred prior to unloading of the goods at the port within the customs territory of the People's Republic of China". What is envisaged by "associated costs" in this context?
2. Article 6 refers to acceptance of transaction value "whenever.... the importer demonstrates that such value closely approximates to the one of the following" (specified). Can it be confirmed that the above provision reflects Article (1)(2)(b) of the Customs Valuation Agreement, and it applies not as an obligation but as a choice with the importer can exercise?
3. Article 11 closely reflects the provisions of Article 7 of the Customs Valuation Agreement, but some apparently minor differences in terminology arise. Can it be confirmed that Article 11 of the Chinese legislation reflects Article 7 of the Customs Valuation Agreement without differences of substances?

4. Article 13 indicates that for processed goods sold from a bonded area or warehouse, the determination of the customs value is on the basis of the selling price (with exemptions for the value of materials and parts added). Can it be confirmed that Article 14 applies only to goods which have been processed in the People's Republic of China?

5. Article 24 deals with calculation of transport charges. The provisions of Article 24 seem to indicate that the taking into account of the costs of transport beyond the port or place of importation (Article 7 of the Customs Valuation Agreement). Is this actually the case?

6. Articles 26 and 28 prescribe fixed percentages for insurance and freight. The Customs Valuation Agreement does not provide a basis for such a practice, as it is the actual costs which should be taken into account. What happens if the fixed percentage is higher than the actual cost for insurance and freight?

7. Articles 31 and 32 refer to obligations for various parties to provide information on request. Can it be confirmed that, with respect to implementation of the Customs Valuation Agreement, Chinese legislation will not require parties not resident or established in the People's Republic of China to provide information in relation to transactions?

8. Articles 33 and 34 gives 15 days for importers to provide certain information. It is however the case that the preparation and delivery of certain data and information may require sufficient (i.e., longer) time. Can it be confirmed that sufficient time is allowed to importers to answer requests from the customs administration for information?

9. Article 45 refers to particular cases where these rules may not apply. Can it be confirmed that any additional rules covering the special situations mentioned will follow on the lines of the Customs Valuation Agreement?

#### Horizontal questions

Finally, on a more general level, can China confirm that, in accordance with the principles and provisions of the Customs Valuation Agreement, no rules, regulations or administrative practices will allow the use of price indicators to substitute for the methods of valuation provided for in the Customs Valuation Agreement?.

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