

Customs Valuation Issues and Research Methodologies

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Outline of Presentation

- I. Relevance of Customs Valuation
- II. The Agreement on Customs Valuation (ACV)
- III. Customs Valuation Practices
- IV. Possible Research Methodologies

I. The Relevance of Customs Valuation

- Customs valuation has historically been a jealously guarded function of government with regard to international trade
- For many countries the discretion given to customs authorities in valuing trade for the imposition of tariffs and duties has been an important source of revenues
- This is more so in developing countries which are often characterized by shallow tax bases

Import Duties as Percent of Government Revenues

Region	Sub-Group	Import Duties as % of Revenue	
		1992-93	1999-2001
Africa	Least-Developed	29%	34%
	Other	26%	22%
Asia	Least-Developed	27%	20%
	Other	18%	11%
Western Hemisphere	Caribbean	27%	23%
	Central America	20%	10%
	Other	8%	6%
Middle East		12%	8%
Europe		7%	4%
Developing Countries		18%	15%

Source:

Revenue Collected by ASEAN Customs: 2003

	Total Collection US\$ million	Share in total taxes, %	Share in govt revenue, %	Share of duties in collection, %
Brunei	59.6	n.d.	4.0	99.5
Cambodia	77.8	82.4	57.9	31.8
Indonesia	8,668.0	29.8	21.6	14.9
Lao PDR	n.d.	n.d.	n.d.	n.d.
Malaysia	5,361.2	31.4	22.0	25.0
Myanmar	1,489.8	n.d.	n.d.	44.5
Philippines	1,948.9	19.7	16.9	39.0
Singapore	1,101.2	7.8	6.8	0.0
Thailand	2,853.7	13.1	11.7	n.d.
Vietnam	2.5	n.d.	32.2	n.d.

Source:

- Customs valuation has also been a vehicle for protecting local industries from imports
- Local industries for example supplied customs authorities with “list prices” as basis for valuation
- It is not surprising that only 30 of the 75 GATT contracting parties acceded to Agreement on Customs Valuation (ACV) in the Tokyo Round
- The single undertaking of Uruguay Round however has made it imperative for WTO members to agree to ACV.

II. The Agreement on Customs Valuation

- The ACV lays down rules and disciplines in the valuation of goods that are traded
- It sets standards which are the basis used by all contracting parties to the WTO
- There is a measure of predictability with the ACV increasing trade facilitation
- In the GATT 1994 the ACV builds in some of the concerns of developing countries (e.g. burden of proof on importers) through WTO decision

Customs Duty Assessment

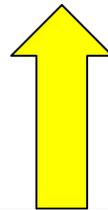
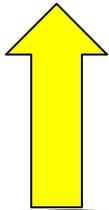
Rate of duty
specified in
national
legislation

x

Value of
imported
goods

=

Customs duty/
Tariff Barrier



Bound through
WTO negotiation

WTO
ACV

The Agreement on Customs Valuation*

- (Art. 1-8) Methods of Value
- (Art. 9) Currency conversion
- (Art. 10) Confidentiality
- (Art. 11) Right of Appeal
- (Art. 12) Publication
- (Art. 13) Release of Goods
- (Art. 15) Definitions
- (Art. 16) Explanation in writing

Methods of Value

1. Transaction value
2. Transaction value of identical goods
3. Transaction value of similar goods
4. Deductive value
5. Computed value
6. Fall-back method

- The use of the transactions value (and other subsidiary methods laid out in Articles 2-8) is consistent with commercial practices
- The ACV provides for uniformity in valuation, is fair and neutral, and simple and equitable (*Preamble*)
- Article 20 provides for *special and differential treatment* for developing country members (5-year delayed application)
- Interpretative Notes detail the processes in the valuation methods including reversals

III. Customs Valuation Practices

- Before ACV (and the negotiations to its agreement) trading countries used various methods of valuation with different intents i.e. revenue or protection or both
- There was the Brussels Definition of Value (BDV), a notional concept of custom valuation price which did not really lead to conformity with import price

- Due to its ambiguity, the BDV spawned many derivative methods such as
 - *the value based on a customs authority's concept of price at which a good should be sold*
 - *the value of a good is priced to include advertising costs (e.g. in Japan)*
 - *the invoice price c.i.f. or f.o.b.*
 - *the American Selling Price (ASP), which while not BDV-based, was intended to give protection to local industries*

- *list price as the price the "...manufacturer was willing to receive...when sold for domestic consumption in the ordinary course of trade and in the usual wholesale quantities*
- *"blue book" price containing estimated values of goods according to customs determination*
- *home consumption value (HCV) as the value of the goods in the exporter's home market at the time of importation*

- The ACV mandates that customs valuation use the transactions value or the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with...(*Article 1, Article VII GATT 1994*)
- The manner of determining the transactions value is defined thoroughly in the ACV in various steps depending on the feasibility of the method
- The transactions value is equivalent to the invoice value

IV. Possible Research Methodologies

- In order to trace the evolution of customs valuation practice in a country it is essential to understand the underlying rationale for the valuation
- For some countries the existing practice before the adoption of the transaction value (TV) has been used by customs authorities for a long time (e.g. the ASP since 1920 and the HCV in the Philippines for 70 years)

- ✓ One way to carry out a customs valuation research is a historical view which can include length of time for completion of valuation, disposition of goods upon valuation, and the revenues from customs tariffs.
- ✓ Where there is a clear break in the introduction of TV (or even a transition period) it is possible to do a comparison through samples of declarations under the different methods (e.g. values for similar HS codes)

- ✓ In some countries with an associated pre-shipment inspection practice it would even be possible to explore more rigorous hypotheses by comparing PSI values with declared values in samples of declarations
 - the ratios can be traced over time and identifying reasons for variations
 - these can be examined according to HS and country of origin
 - by trade regimes (associated with liberalization episodes)
 - by exchange rate regimes (periods of exchange controls or restrictions)

- The idea behind measuring ratios is to find out whether the change to TV is associated with “more or less honesty” on the part of traders i.e. over-invoicing or under-invoicing where a ratio close to 1.0 between say HCV and TV means no difference in declarations
- These ratios could vary depending on the tariff rates of sectors or industries or the origin of the imports (there could be variations in bilateral trade policies)
- The following 3 slides present some results from a study of HCV/TV in the Philippines

Clear Report of Findings of Entries by SGS by Ratios, Regime and Period

Period	CRFES, R<1	% Share in Total	CRFES, R=1	% Share in Total	CRFES, R>1	% Share in Total	TOTAL
HCV Regime							
July 94-June 95	27,390	19.01%	48,215	33.47%	68,456	47.52%	144,061
July 95-June 96	35,184	15.40%	73,058	31.98%	120,188	52.61%	228,430
EV Regime							
July 96-June 97	50,636	40.90%	12,279	9.92%	60,896	49.18%	123,811
July 97-June 98	10,573	22.02%	16,782	34.95%	20,665	43.03%	48,020
July 98-May 99	8,904	13.74%	25,152	38.82%	30,742	47.44%	64,798
TOTAL	132,687		175,486		300,947		609,120

Source:

Valuation Ratios by SITC (one-digit) and Time Period

SITC	DESCRIPTION	Weighted Average				
		July 1994- June 1995	July 1995- June 1996	July 1996- June 1997	July 1997- June 1998	July 1998- May 1999
		<i>HCV/IV</i>		<i>EV/IV</i>		
0	Food and Live Animals	1.105	1.071	1.037	1.026	1.050
1	Beverages & Tobacco	1.117	0.993	1.032	1.078	1.025
2	Crude Materials, Inedible, except Fuels	1.095	1.127	1.087	1.019	1.076
3	Minrl Fuels, Lubricants & Related Mat'l	1.048	1.085	1.117	1.043	1.009
4	Animal & Veg Oils, Fats & Waxes	1.141	1.106	1.134	0.994	1.019
5	Chemicals & Related Products, Nes	1.105	1.159	1.018	1.053	1.081
6	Manuf Goods Classified Chiefly by Mat'l	1.078	1.105	1.011	1.012	1.065
7	Machinery & Transport Equipment	1.057	1.052	1.002	1.014	1.050
8	Miscellaneous Manufactured Articles	1.164	1.161	1.151	1.027	1.183
ALL COMMODITIES		1.101	1.095	1.065	1.029	1.062

Source:

Valuation Ratios by Country of Origin of Imports and Time Period

COUNTRY	July 1994- June 1995	July 1995- June 1996	July 1996- June 1997	July 1997- June 1998	July 1998- May 1999	AVERAGE
	HCV/IV		EV/IV			
HKG	1.153	1.202	1.526	1.125	1.261	1.253
ASEAN-SGP	1.140	1.173	1.078	1.296	1.182	1.174
CHN	1.133	1.132	1.123	1.081	1.142	1.122
USA	1.125	1.104	1.065	1.045	1.091	1.086
TWN	1.089	1.121	0.998	1.125	1.092	1.085
ROW	1.071	1.103	0.956	1.099	1.050	1.056
EU	1.072	1.107	0.981	1.038	1.061	1.052
KOR	1.035	1.060	1.000	1.030	1.081	1.042
JPN	1.054	1.049	0.970	0.969	1.016	1.012
SGP	0.937	0.997	0.928	1.004	1.083	0.990

Source:

✓ Another research direction is to measure which of the methods of valuation in the ACV is practiced in the country. This would indicate the degree to which there is convergence between how customs authorities view importers' declarations and how accurate are declarations or whether they trigger the succeeding methods of determining valuation. In most cases where some studies have been done the prevalent method is direct transactions value

Share of Value Method in Some Countries

	TRANSACTION VALUE	TRANS-ACTION VALUE OF IDENTICAL GOODS	TRANS-ACTION VALUE OF SIMILAR GOODS	DEDUCTIVE VALUE	COMPUTED VALUE	FALL - BACK METHOD
	1	2	3	4	5	6
EC	95.4	0.3	0.2	2.1	-	2
Finland	93.1	0.3	0.1	-	-	6.5
Hungary	86.8	10.9	2.3	-	-	-
Japan	96.6	1.4	0.1	0.3	0.5	1.1
Romania	100	-	-	-	-	-
Sweden	99+	-	-	-	-	-
USA	94	1	0.5	1	2	1.5
Norway	98.5	0.4	-	-	-	1

✓ Another research option is to document cases for the different steps in the valuation processes that have been disputed or decided upon by customs or judicial authorities. The underlying rationale is to draw out specific customs valuation issues which can validate or qualify the ACV such as *treatment of transactions between related parties, price determination, condition of goods at time of importation, etc.* The following slides show specific case studies

Case: Price Determination

An importer purchases frozen vegetables and mushrooms in jars from its wholly owned Mexican subsidiaries. The invoices submitted for appraisement purposes reflect transfer, or estimated, prices based on an “export invoice pricing policy.” The importer effects payments via lump sum monthly transfers in response to the exporter’s request for funds, without regard to specific entries. An aggregate average price, as opposed to an entry specific price, is derived from the prices set by the Mexican exporters, wherein the prices fluctuate based on actual costs and shipping volume. This method of pricing does not represent a formula nor does it result in a fixed price for the merchandise. In addition, evidence has not been provided concerning the circumstances of sale between the related parties that would indicate that their relationship did not influence the price actually paid or payable. Transaction value is not applicable in this case.
546231 dated Feb. 10, 1997.

Case: Related Parties

The buyer of the imported merchandise is a subsidiary of the foreign seller. The foreign seller is the related buyer's only foreign vendor. Using the same price list, the foreign seller sells its merchandise to the related buyer, unrelated U.S. distributors and unrelated U.S. retailers. The related buyer receives a higher trade discount than do the unrelated U.S. distributors. However, the trade discounts to both the related buyer and unrelated U.S. distributors are based on the volume of their purchases from the foreign seller. In addition, the larger trade discount given to the related buyer is due to the increased warehousing costs incurred by stocking a larger and more extensive line of the foreign seller's products than that which is maintained by the unrelated U.S. distributors. The related buyer also markets and advertises the foreign seller's merchandise in the United States. When the related buyer's purchases are adjusted for volume, the trade discounts are not significantly different from that between the related buyer and the unrelated distributors. Thus, it does not appear that the relationship affects the price of the merchandise; the parties buy and sell from each other as if they are unrelated. Therefore, the circumstances of sale indicate that transaction value is an acceptable method of appraisal.

546285 dated June 7, 1996.

Case: Goods Condition at Time of Importation

The importer purchased yarn from a foreign seller and then resold the yarn to a company in the United States. During the dyeing process, it is alleged that the yarn would not dye properly because it was contaminated with polypropylene and vegetable matter. The foreign seller was notified and the importer received a credit to cover the cost of removing the contaminants. The importer has not provided sufficient, independent evidence that corroborates the claim that the yarn was defective at the time of importation. An analysis of the yarn by a Customs laboratory indicates that the sample was composed wholly of wool fibers, and that the yarn was not contaminated or defective. There is insufficient evidence to support a finding that the imported merchandise was partially damaged at the time of importation; therefore, no adjustment in the appraised value is warranted.

546354 dated July 19, 1996.

Source:

Postscript

- There is dearth of information and analysis on how customs authorities value goods for tariff (revenue) purposes
- Yet customs valuation can impede the movement of goods and hinder trade facilitation
- Some even argue that customs valuation is capable of becoming a trade barrier with stronger impact than other forms

Thank you...

