



**Asia-Pacific
Economic Cooperation**

Final Report

Project: CTI 11/2008T

**Workshop on Application of Valuation Criteria in Advance
Rulings in APEC Member Economies**

Arequipa, Peru

May 23-24, 2008

Sub-Committee on Customs Procedures

November 2008

ACKNOWLEDGEMENTS

A special thanks to the Economies who contributed to the development of the project and participated in the workshop through the participation of their experts, who shared experiences on the application of Valuation Advance Rulings in their respective economies.

Likewise, a special thanks to those Economies who participated actively in the workshop and contributed to the success and achievement of the project objectives.

Finally, a special thanks to the APEC Secretariat for its cooperation and support for the development of this report

APEC Project No. CTI 11/2008T

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Part I.
Background

Project Background

The foreign trade dynamism has facilitated the constant search of a better competitive position from the different foreign trade operators, where the Customs administration performance has an important role within the whole logistic process. Within this context, foreign trade operators require a greater speed in their goods clearance therefore, it is necessary for Customs to have mechanisms to facilitate this process.

On the other hand, the valuation system based on the WTO Value Agreement privileges the transaction value of imported goods, which in many cases an exhaustive evaluation is required for its acceptance, that may cause delays and over costs in goods clearance. In that sense, the purpose of this project is to conduct a seminar in order to exchange information about the process of the Valuation Criteria Advance Rulings applied by APEC Economies.

Peru, as many other APEC Member Economies is part or is negotiating Free Trade Agreements, which establish the application of trade transaction cost reduction-oriented measurements. One of the steps to be applied is the implementation of Valuation Advance Rulings that contributes to the facilitation of goods clearance.

The application of Customs valuation criteria in the framework of advance rulings represents a mechanism which contributes to the reduction of trade transaction costs. Hence, obtaining the experiences of the economies that has implement it would allow other economies to efficiently implement it.

The project will allow Customs administrations which do not apply this mechanism yet to learn the best practices in the implementation of the Advance Ruling Valuation Criteria, in order to help in the reduction of cost transaction by reducing goods clearance time. This mechanism will also result in a greater security for foreign trade operators, as importer will know in advance which valuation criteria is going to be applied in his/her importation before goods are cleared.

Workshop Information

The workshop was held in Arequipa, Peru at the TECSUP facilities (Urb. Monterrey Lote D-8 José Luis Bustamante y Rivero) on May 23-24, 2008.

Speakers used a keynote presentation technique and a group technique was used to analyze data received and identify best practices.

It aimed at participants to identify best practices in Valuation Advance Rulings' application by more experienced APEC Member Economies, in order to efficiently implement this mechanism and identify advantages in its application.

Representatives from all APEC Member Economies, ABAC business community, Peruvian Customs officials (SUNAT) and Peruvian officials from the Ministries of Economy and of Foreign Trade were invited.

A total of 43 participants from Australia; Chile; People's Republic of China; Indonesia; Japan; Republic of Korea; Malaysia; Peru; The Philippines; Russia; Chinese Taipei; Thailand; United States and Viet Nam were designated to participate in the 18-hour workshop.

Attendees actively participated with questions, queries and group work. There was data and experience feedback which enable to identify best practices in the process of Valuation Advance Rulings application.

Moreover, participants agreed that all collected data and identified best practices will be used in their economies for an efficient system implementation or improvement.

In the following table we can appreciate the number of attendees participating in the workshop according to their Economy. Such information also includes speakers.

	APEC Economy	Number of Participants
1	Australia	1
2	Chile	1
3	People's Republic of China	1
4	Indonesia	1
5	Japan	2
6	Republic of Korea	2
7	Malaysia	1
8	Peru	26
9	The Philippines	2
10	Russia	1
11	Chinese Taipei	2
12	Thailand	1
13	The United States	1
14	Viet Nam	1
	TOTAL	43

Workshop Agenda

Friday 23 May

Day 1 - Workshop on Application of Valuation Criteria in Advance Rulings.

08.30am – 09.00am	Participants arrival and registration
09.00am – 09.10am	Welcome remarks SUNAT representative
09.10am – 09.20am	Opening Remarks Mr Takashi Hattori Director (Program) APEC Secretariat
09.20am – 09.30am	Speakers presentation and workshop purpose
09.30am – 10.20am	Experience on Application of Valuation Criteria in Advance Rulings in Malaysia Mr Johari Alifiah Senior Assistant Director of Customs Technical Services Division, HQ Royal Malaysian Customs
10.20am – 10.35am	Questions & Answers
10.35am – 10.55am	BREAK
10.55am – 11.45am	Experience on Application of Valuation Criteria in Advance Rulings in Japan Mr Nobuyuki Shokai Senior Valuation Specialist, National Valuation Center, Japan
11.45am – 12.00pm	Questions & Answers
12.00pm – 14.00pm	LUNCH
14.00pm – 14.50pm	Experience on Application of Valuation Criteria in Advance Rulings in Korea Mr Chung, Il Sok Director for Audit Policy Korea Customs Service
14.50pm – 15.05pm	Questions & Answers
15.05pm – 15.55pm	Experience on Application of Valuation Criteria in Advance Rulings in United States Mr Fernando Peña Valuation Branch Office Of International Trade U.S. Customs
15.55pm – 16.10pm	Questions & Answers
16.10pm – 16.20pm	Official Photograph
16.20pm – 16.40pm	BREAK
16.40pm – 17.30pm	Experience on Application of Valuation Criteria in Advance Rulings in Australia Mr Wayne Baldwin Manager, FTA Negotiations & Implementation Trade Services Branch Australian Customs Service
17.30pm – 17.45pm	Questions & answers

END OF SESSION

Saturday 24 May

Day 2 - Workshop on Application of Valuation Criteria in Advance Rulings.

09.00am – 09.20am	Comments and summary of presentations made the day before and working groups organization
09.20am – 10.00am	Discussion and review of Topic 1 (see attachment) by all working groups according to presentations per each economy
10.00am – 10.40am	Discussion and review of Topic 2 (see attachment) by all working groups according to presentations per each economy
10.40am – 11.00am	BREAK
11.00am – 11.40am	Discussion and review of Topic 3 (see attachment) by all working groups according to presentations per each economy
11.40am – 12.20pm	Discussion and review of Topic 4 (see attachment) by all working groups according to presentations per each economy
12.20pm – 13.00pm	Consolidation of works carried out by the working groups and development of a comparative matrix on identified process by the Experts Group, Representatives from Economy of Peru and Volunteer Economies
13.00pm – 15.00pm	LUNCH
15.00pm – 16.30pm	Discussion and review of the developed matrix and identification of best practices which have been considered by the participating economies.
16.30pm – 16.50pm	BREAK
16.50pm – 17.30pm	Comments and conclusions by Speakers
17.30pm – 17.50pm	Comments by Participants
17.50pm – 18.00pm	Closing Remarks

END OF THE WORKSHOP

Annex To The Agenda

Topics to be discussed in the Working Groups

Topic 1

- 1.- Logistic issues for the implementation
 - Requested personnel
 - Personnel functions
 - Computer systems
 - Organizational Structure
 - Location (centralized or decentralized)
 - Public relations concerning the introduction of a Valuation Advance Ruling system

Topic 2

- 2.- Framework of Standards and legal aspects of Valuation Advance Rulings
 - Scope of Valuation Advance Rulings regarding to its issuance
 - Binding aspect to other transactions by the same importer and other importers
 - Information confidentiality
 - Appeal and / or review proceedings

Topic 3

- 3.- Operative process in the Valuation Advance Rulings issuance
 - Requirements to be accomplished by importers
 - Application requirement
 - Means by which an application is carried out
 - Required supporting documents
 - Complementary information requirement
 - Term between the application presentation and the rulings issuance
 - Rulings content
 - Payment for services
 - Use and application of Valuation Advance Rulings
 - Valuation Advance Rulings Deadline
 - Valuation Advance Rulings Renewal
 - Valuation Advance Rulings Amendment and Revocation
 - Cases in which the Valuation Advance Rulings can be issued
 - Publication of the Valuation Advance Rulings

Topic 4

- 4.- Valuation Advance Rulings importance and benefits and best practices identification
 - Trade facilitation
 - Expedite of clearance process
 - Cost and time reduction
 - Legal security of user
 - Decisions in a stable environment
 - Higher level of user satisfaction

Opening and Welcoming Remarks

By
Mr Rafael Reano
Manager of International Agreements and Valuation
National Superintendency of Tax Administration (SUNAT)
Meeting room of TECSUP, Arequipa, Peru
23-24 May 2008

Distinguished Delegates
Distinguished APEC Secretariat Representative
Distinguished Speakers,

Ladies and Gentlemen:

As host economy, it is an honor and privilege to welcome you to Arequipa, venue of the “Workshop on Application of Valuation Criteria in Advance Rulings in APEC Member Economies” and I also would like to wish you a nice stay here in this beautiful city.

In the Ha Noi Declaration, which was endorsed by APEC Leaders in Viet Nam in 2006, a framework for the adoption of measures aimed at the promotion of investment and free trade was agreed. Even more an endeavor commitment was made in order to achieve APEC goals of open and free trade.

For 2008, Ministers and Leaders gathered in Sydney, Australia in September 2007 encouraged us to further progress goals achieved last year. This means to face challenges that facilitate economic growth, intensify economic and technical cooperation, strengthen our integration and increase our sense of community by working actively in APEC to create more prosperity in the region.

The Second Trade Facilitation Action Plan approved in 2007 captures Ministers and Leaders’ request to achieve another 5% reduction in transaction costs for 2010 including besides a menu of actions and measures, activities and initiatives that allow achieving such reduction.

In this regard the valuation system based on the WTO Valuation Agreement privileges the transaction value of imported goods, whose acceptance requires a thorough assessment, which sometimes does not allow an expeditious goods clearance.

In last year SCCP2, Peru submitted a project proposal to hold this workshop, which was approved by APEC. It establishes that the application of customs valuation criteria in the framework of advance rulings represents a mechanism, which contributes to cost and time reduction of goods importation.

We expect to collect the experiences from Australia, Korea, Japan, Malaysia and United States on the application of valuation criteria in Advance Rulings so other economies yet to apply it, may implement this system efficiently.

Finally I want to thank the speakers and all of you for your attendance to this workshop and I also encourage you to provide all your efforts to ensure a successful and active participation that contributes to achieve proposed goals in the project as an input to cost reduction in trade transaction in the region.

Thank you very much.

List of Speakers

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Speakers' Biographical Sketches

1. Wayne Baldwin



Wayne Baldwin is Manager FTA Negotiations & Implementation of the Australian Customs Service. He works for Customs for 30 years, the last 10 years in the valuation and origin section. He has attended many Technical Committee on Customs Valuation meetings in Brussels and also regional World Customs Organization Valuation meetings. Specifically on advance rulings he has prepared and delivered a workshop on the subject to Association of Southeast Asian Nations (ASEAN) members during Free Trade Agreements negotiations in Brunei. He has also prepared and delivered a workshop and training course on pre-clearance measures, which included advance rulings for ASEAN economies in Hanoi and Bangkok. He has also administered the valuation advance ruling system in Australia for the last 8 years.

2. Nobuyuki Shokai



Nobuyuki Shokai is a Senior Valuation Officer in the National Valuation Center of Japan since 2006. He has a 22-year work experience in Customs areas. He has been Section Chief in charge of regional Customs cooperation, such as APEC matters, including SCCP matters. Customs & Tariff Bureau, MOF, Japan (2000-2003). He also has been JICA Expert to provide technical assistance concerning Post-Clearance Audit to ASEAN Member Countries, the ASEAN Secretariat, Indonesia (2003-2006). In addition to the job experiences abovementioned, he has experience in working for Post-Clearance Audit, Customs Clearance and Enforcement.

3. IL Sok Chung



IL Sok Chung is Director for Audit Policy of the Korea Customs Service since 2006. He has an MA in Economics, Syracuse University, USA. He also has a BA in Business Administration, Seoul National University, Korea. Mr Chung was in 1987 Deputy Director, Administration Management Division Customs Research Division, Korea Customs Service; Chief of Import Section, Pusan Main Customs Office in 1994. He also has been Director of Trade Cooperation Division, KCS (1988), Director of IT Division, KCS (1999), Director of Customs Clearance Bureau, Incheon Main Customs (2001).

4. Johari Alifiah



Johari Alifiah is Senior Assistant Director of Customs Royal Malaysian Customs. He holds a Master of Business Administration (2003) from the National University of Malaysia (University Kebangsaan Malaysia) and a Bachelor Degree of Arts (Population Studies) (1985) from the University of Malaysia. He has 23 years of experience working in the Royal Malaysian Customs in various sections including internal taxes, Customs, logistics, personnel management and valuation. He is an expert officer in valuation of imported goods. Mr Alifiah has 5 years of experience in teaching and training on the customs valuation module at the Royal Malaysian Academy (AKMAL) and also has experience in doing market research overseas.

5. Fernando Pena



Fernando Pena is currently Senior Attorney for the Office of International Trade, U.S. Customs, specializing in advising agency clients concerning the application of international trade and tariff laws. His work is focused on issuing rulings concerning tariff classification, valuation, country-of-origin marking, and eligibility for preferential tariff treatment under special U.S. trade regimes. He assisted the United States Trade Representative in negotiating free trade agreements with Colombia, Peru and South Korea. In addition, he has been actively involved in bilateral working party meetings with countries in accession proceedings before the World Trade Organization, including Lebanon, Serbia, Montenegro, Ukraine and Vietnam. Mr Pena has given technical assistance to foreign customs administrations on revenue enhancement, valuation, automation and other customs modernization measures. He served as Chief of Party of a U.S. Agency for International Development (USAid) mission to the Andean Community member countries. In 2004, he received the Commissioner of Customs' Ambassador Award for his involvement in a major regulatory initiative that implemented the cargo security provisions of the Trade Act of 2002, more commonly known to the trade as the Advance Cargo Manifest Rule. Previously, Mr Pena was a financial advisor to the President of the Government Development Bank for Puerto Rico on the privatization of certain hospitality, healthcare, agricultural and correctional facilities as well as to the Puerto Rico Tourism Development Fund, on the financing of hotel projects. More recently, Mr Pena was legal counsel and financial consultant for the Real Estate and Hospitality practice group at McConnell Valdés, LLP in San Juan, Puerto Rico. Mr Pena holds a Bachelor of Science in Foreign Service from Georgetown University and a Juris Doctor from the University of Puerto Rico School of Law. He is admitted to practice in the Commonwealth of Puerto Rico and the U.S. Court of International Trade in New York.

Part II.
Presentations

Experience in Valuation Advance Rulings application in Australia




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Workshop

Application of Valuation Criteria in Advance Rulings in APEC Member Economies

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What is an Advance Ruling

- It is an advice provided by Customs:
 - upon written application by a client;
 - It is a written binding ruling outlining how we will apply the provisions of our legislation to an importation (i.e. on key elements of import transactions);
 - provided prior to the importation of goods

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- A valuation ruling is issued in relation to:
 - methodological issues of valuation; and
 - whether certain costs should be included or excluded (e.g., packing costs, foreign inland freight and insurance, commission, and royalties) from the valuation calculation.



- For Australia a valuation ruling does not extend to Customs advising the client of the amount of the customs value for individual goods.



How can a Valuation Advance Ruling system be implemented

- There are no definitive rules on how an advance ruling system should be set up and implemented.
- The system can be implemented either by legislation or by an administrative arrangement.

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- Either system must obey the golden rule of advance rulings:

Advance rulings are binding on Customs and must be honoured for the period of time specified on the written advice. The ruling must be applied to importations provided the facts relating to the imported goods are identical in all material aspects.

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Methodology used in Australia

- Australia provides advance rulings as a service for the convenience and guidance of clients, without the requirement for legal provisions.
- Rulings made by the Australian Customs Service are binding on Customs under Government administrative arrangements which require that all correspondence provided by a Government Department is binding on that Department.

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Organisational structure for Valuation Advance Rulings

- Valuation operational policy is administered by regional offices.
- Valuation advance rulings are issued regionally.
- Valuation policy and review of rulings are administered by central office in Canberra.

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- Pre 2001 valuation advices were issued by all regions, i.e. the issue of rulings was decentralised.
- Post 2001 the issuing of valuation advices was centralised in Melbourne, i.e., rulings for anywhere in Australia are now issued by Victoria:
 - Due to low volume of advices issued and the need to ensure that staff who issue the advice are experts



Staff required to issue ruling

- Staff required, and their roles:
 - 2 officers to issue the ruling
 - 1 officer to supervise and sign off on the ruling.



How to request a ruling

- Requests for an advance ruling must be in writing and must contain a complete statement of all facts relevant to the transaction and the subject of the ruling request.
- The relevant facts reflected in any documents submitted should be accompanied by an explanation of their bearing on the ruling request.



- All invoices, contracts, agreements or other documents that relate to the requested matter should accompany the application, examples of documents required are:
 - commercial invoices;
 - agreements and contracts of sale;
 - purchase order confirmations;
 - letters of credit;
 - evidence of proof of payment;
 - licensing agreements;
 - warranty agreements



- The application may be made:
 - electronically using the TAPIN system (refer to Tariff and precedents information network fact sheet in handout); or
 - via a paper application (refer to the Application for a valuation advice in handout).



How is the Ruling issued

- Advance ruling is issued at the written request of the client, it is issued:
 - within a defined period of time (for Australia this is 30 days);
 - in writing; and
 - for imports within a specific period of time. (for Australia this is 5 years)



- Advance rulings will be based on complete and accurate information.
 - It is the obligation of the client to provide all relevant information.
- If the information provided is insufficient Customs will not issue an advance ruling.



- The ruling is issued to the client in writing; and
- published on the in-house TAPIN system for viewing by any Customs officer who has a reason to view it.



- Customs is bound by legislation to ensure the non-disclosure of information that may be damaging to individual or commercial interests.
- Due to the sensitive and specific nature of the information provided by clients there is no release of details of the advance ruling to anyone other than the applicant.
- Generic rulings which have general application may be issued to all clients.



- Misinformation will render the advance ruling void.
- The ruling should be based on factual information and a ruling will not be issued if a request is hypothetical in nature.



- Where additional information is required to finalise a ruling Customs will request that the additional information be provided within 28 days.
- If the applicant does not provide the information, or does not request an extension of time, within the specified time period Customs will cancel the application.



- For complex issues, Customs may require more than the 30 day time period to finalise the ruling.
- When the ruling cannot be finalised within the time period Customs will notify the applicant of the extended time period.



- An applicant is allowed to withdraw an application at any time prior to finalisation of the decision by Customs.
- The decision of Customs on the ruling will be conveyed to the applicant in writing, providing the reasons for the decision and refer to the relevant legislation to support the decision.



- Customs may revoke or amend a ruling where particular circumstances warrant, e.g., where:
 - an amendment to the legislation has relevance to the ruling;
 - incorrect information was provided or where relevant information was withheld; and
 - Customs changes its views (this occurs very infrequently and can result from such factors as legal precedent or the receipt of supplementary information).



Service payment

- There is currently **no** fee for providing a Valuation advance ruling by Australian Customs.
- Remember that if a fee is charged it should be applied in accordance with Article VIII:1 of GATT 1994 and its interpretive notes, i.e., it is only to be applied on a cost recovery basis.



Use and application of Ruling

- Advance rulings are binding on Customs for the 5 year time period specified on the written advice.
- The ruling will be honoured nationally during this time period, unless it has been revoked.



- Customs maintains the option to modify or revoke a ruling at any time, should factual or legal circumstances change and/or when inaccurate or false information has been provided.
- The client should advise Customs of any changes related to a ruling.



- When entering goods the client quotes the ruling number on their entry
- If the entry is questioned, the client only has to show that the facts of the importation are the same as those used to issue the ruling



Client obligations when using an advance ruling

- A client who has been issued an advance ruling in connection with a good that is being imported must abide by the ruling when completing the customs clearance for the good.
- Failure to do so may result in a rejection of the entry and the imposition of penalties if appropriate.

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When a ruling can not be used

- A ruling can not be used when the facts of the importation are different to those supplied to obtain the ruling; or
- When the ruling has been revoked by Customs.

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Benefits of an Advance Ruling

- The main reason a client will request a ruling is because the client wants to be assured in advance of importation of their customs duty and tax liability.

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- The ruling provides the client with predictable information in advance of the movement of goods in order to facilitate compliance with Customs requirements.
- The ruling is provided so that it can be used repeatedly; it is not limited to a specific importation.

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- Advance rulings provide consistency of decision making and speed up customs clearance of goods at the border by determining elements of the import transaction prior to importation.



- Making a ruling before importation means that Customs does not have to spend time at the border at the time of importation, determining the answers to questions where there is doubt.
- Customs time is therefore spent more effectively examining other facts of the importation, or other cargo.



- The result of a client using an advance ruling is cost saving to the client and to Customs.
- The effect and purpose of the advance ruling is to provide commercial certainty to importers regarding customs and tax liability (if applicable) of imported goods.



Appeal provisions

- The Australian advance ruling scheme contains access to administrative and judicial review appeal.
- Customs conducts the review process internally and the external review or appeal process is conducted by the Administration Appeal Tribunal or the Federal Court.



Internal review

- The internal review of an advance ruling is important as it provides avenues for re-examination of the ruling.
- Where an applicant is dissatisfied with a ruling the applicant may request Customs to review the decision.
- To ensure that the review process is independent the review is conducted by Central Office valuation staff.

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- An application for a review of a ruling must be in writing, and should fully address the reasons why the decision is disputed.
- The review will take into account only the information that had been provided by the applicant to the original decision maker.
- If the applicant obtains new information they provide this to the original decision maker requesting a revision of the original decision.

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External review

- Where an applicant for an advance ruling is dissatisfied with the original decision or the review decision of Customs, the applicant is able to appeal the matter to an external appeal Authority.
- In Australia such authority is either the Administrative Appeals Tribunal with further appeal provided by the Federal Court.

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Timeframes for appeal or review

- There is no timeframe for the lodgement of an internal review.
- Customs will provide the decision on an internal review within 30 workings days.
- External appeals against advance rulings are brought before an external appeal Authorities and the time period are governed by the rules set by these bodies.

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Statistics

Year	Number of Advices issued	Number of Advices reviewed
06/07	74	1
05/06	93	1
04/05	94	2
03/04	99	4

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Summary

- It is considered that the following basic principles should underpin any advance ruling system:
 - rulings should be issued in writing;
 - rulings should bind Customs;
 - rulings should remain valid for a specified period of time and this time period should be communicated to the client;

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- the system should nonetheless incorporate flexibility for Customs to modify or revoke rulings under certain clearly defined circumstances. Clients should be notified in writing of any modification or revocation, and the reasons for it;
- there must be an opportunity for a client to seek a review of the ruling;
- the desirability of making available information on rulings with precedent value needs to be balanced with legitimate confidentiality considerations;



- internal records of rulings should be kept to ensure consistency of decision-making; and
- information on the process for obtaining advance rulings should be easily accessible, to enable clients and their agents to benefit from the service.



Australian Government
Australian Customs Service

Thank you

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Valuation Advance Rulings System in Japan

Nobuyuki SHOKAI

*Senior Valuation Specialist
National Valuation Center, Japan*

Peru, 23-24 May 2008

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1

Legal Basis

n Paragraph 3 of Article 7 of the Customs Law

- ⊙ This provision stipulates that Customs shall endeavor to make an appropriate response to an enquiry made by an applicant (e.g., an importer, his/her agent, etc.) regarding the information necessary for duty declarations of the goods to be imported, such as tariff classification and customs valuation.
- ⊙ This provision has taken into effect in 1966 when the system of self-assessment of duty was introduced.



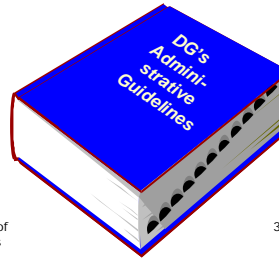
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2

Legal Basis

- n Administrative guidelines issued by the Director-General of the Customs and Tariff Bureau, Ministry of Finance
 - Ø The administrative guidelines have introduced procedures for written valuation advance rulings in July 2005.



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3

Implementation Process

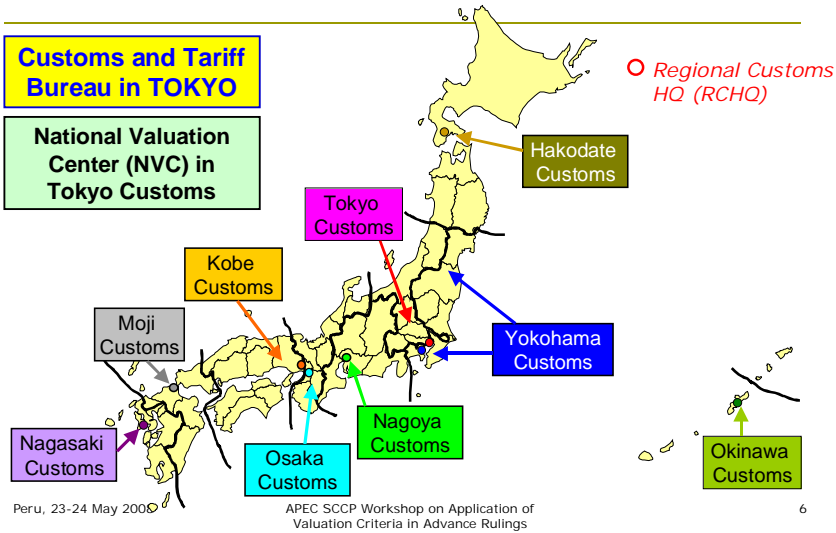
- n Example: Tariff Classification Advance Rulings System
- n One-year preparation
- n Public relations
 - Ø Public release of the administrative guidelines, prior to implementation;
 - Ø Leaflet developed;
 - Ø Meetings held.

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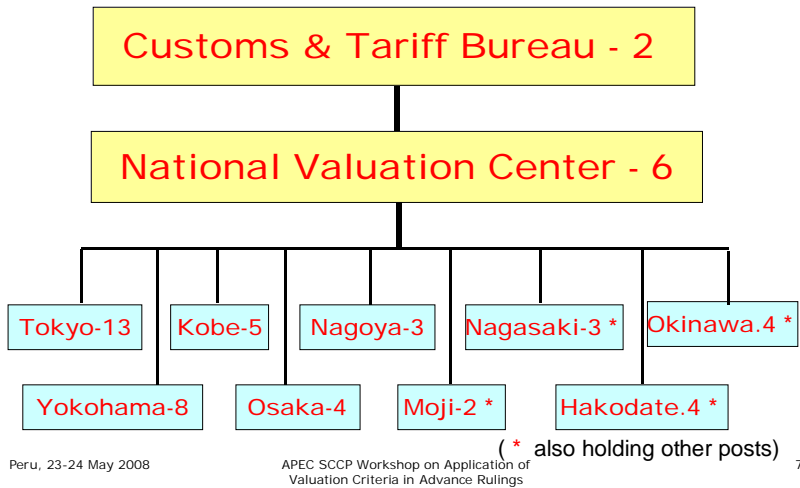
5

Organizational Structure



6

Number of Officers Responsible for Customs Valuation



7

Applicants

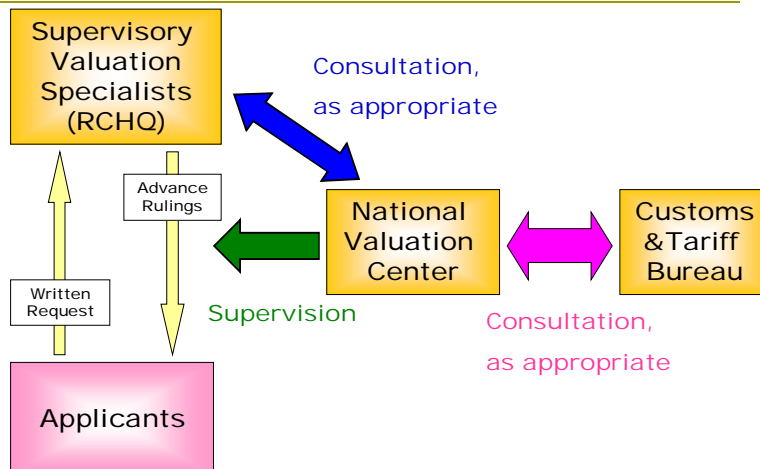
- n Importers;
- n Their agents (e.g., customs brokers);
- n Other interested parties (e.g., buyers, sellers/producers/exporters).

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Proceedings

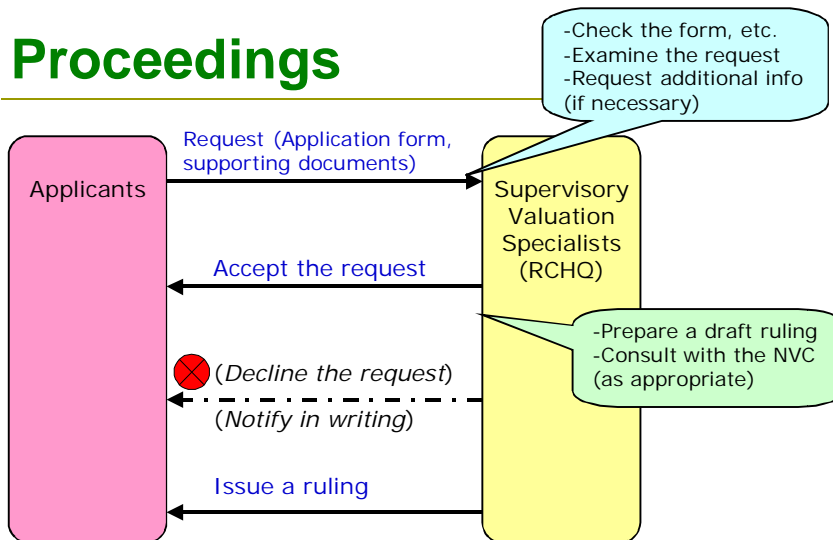


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n Means to request

- ∅ An application for valuation advance ruling has to be submitted to the Customs in writing.
- ∅ While an application form is downloadable from the Customs homepage, an application cannot be made through the online computer system.

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Requirements



- n A request to be made, in writing, to the RCHQ controlling a main office of clearance;
 - n All necessary information, including an application form and supporting documents, to be submitted before a declaration of duty is made;
 - n Additional information to be submitted at the request of the Customs;
 - n Documents in foreign languages to be translated into Japanese at the request of the Customs.
- n **No Fee to be charged.**

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Cases Where a Valuation Advance Ruling is not Issued



- n Where a written request does not meet the requirements.
(Examples)
 - Ø The transaction in question is fictitious or illegal.
 - Ø The request seeks for information on how to alter or structure transactions to avoid or to minimise the payment of duty.
- n Where a duty declaration of the goods in question has been made.
 - Ø However, issued if the goods are still to be imported thereafter.

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Timeframe



- n Within 90 days after the receipt of an application.
 - Ø As expeditiously as possible within 90 days.
 - Ø Period of time counts office closing days.
 - Ø Period of time between the request for additional information and its receipt is not counted.
 - Ø The applicant is contacted when the ruling cannot be issued within the timeframe.



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Ruling Content

- n Summary of the transaction in question
- n Gist of the request (View of the applicant)
- n View of the Customs on the valuation issue in question
- n Reasons



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Use and Application

- n A copy of the ruling is to be submitted together with other supporting documents of the duty declaration.

- n The Customs honours the valuation treatment set out in the valid ruling while examining the duty declaration as far as the declaration is made for the transaction on which the ruling has been issued.

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Term of Validity

- n Up to 3 years after its issuance.
 - Ø Specified on the ruling.
 - Ø Renewal procedures not available.
 - Ø A new request to be made when the ruling expires.

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Modification or Revocation

- n The Customs modifies or revokes the issued ruling where, for example,
 - ⊗ The official interpretation of valuation laws and regulations has been changed.
 - ⊗ The facts or circumstances supporting the ruling have been changed.
- n A period of grace is not given to the holder of the ruling.
 - ⊗ The ruling is not applicable once it was modified or revoked.

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Request for Review

- n Official appeal proceedings are not available since the ruling is not binding on its holder.
- n Request for review can be made against the Customs within 2 months after issuance.
- n The request is forwarded to and reconsidered by the National Valuation Center.
- n Response to the request for review is to be made within 30 days.

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Publication

- n Made publicly available on the Customs homepage.
 - o Accessible free of charge.
 - o Business confidential information and references to specific parties of the transaction are deleted before publication.



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Binding Feature

- n Binding on the Customs with respect to the very transaction by the holder of the ruling.
- n Not binding on the holder of the ruling.
- n Not binding on the Customs with respect to other transactions by the same importer and other importers.

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Experiences

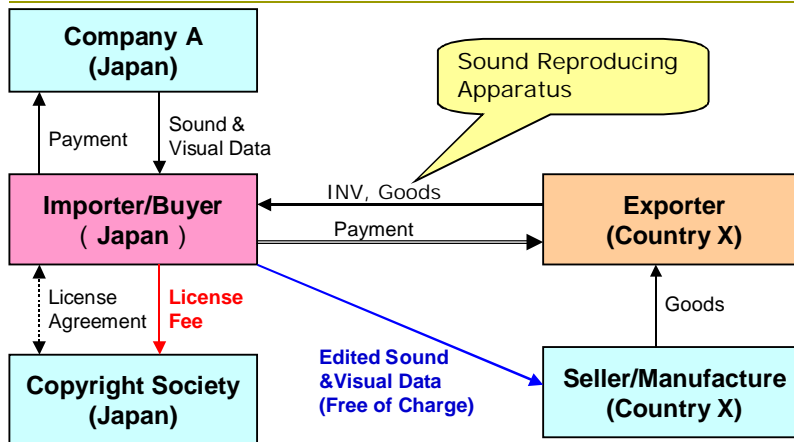
- n 4 rulings in the 1st quarter of this year
- n 6 rulings in total since the introduction in July 2005
 - o Sale for export to Japan in a series of sales situation (2)
 - o Price actually paid or payable
 - o Assist
 - o Transportation and related costs
 - o Application of the fall-back method

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An Example of Issued Valuation Advance Rulings



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An Example of Issued Valuation Advance Rulings

n Issues in question:

Whether the following value and fees are part of the transaction value of the imported goods:

- ⊗ The value of edited sound & visual data supplied by the buyer free of charge;
- ⊗ The license fees that the buyer must pay the copyright society under the license agreement.

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An Example of Issued Valuation Advance Rulings

n Views of the applicant on the issues in question:

- ⊗ The value of edited sound & visual data supplied by the buyer free of charge **NOT** to be part of the transaction value because edit of the data was undertaken in Japan.
- ⊗ The license fees that the buyer must pay **NOT** to be part of the transaction value because the payment is not made as a condition of sale of the goods being valued.

n Views of the Customs on the issues in question:

- ⊗ Same as the views of the applicant

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*Thank you
for your kind attention!*



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Experience in Valuation Advance Rulings application in Korea



I . Overview

1. Definition

- q A process in which a taxpayer gets prior confirmation of the customs on the method of determining customs value of imports
- q When a taxpayer makes an import declaration applying the approved valuation method, the customs accepts it as long as its preconditions and suppositions are satisfied.



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I . Overview

2. Types of Valuation Advance Ruling

- q Advance ruling on the valuation of ordinary imports traded between unrelated parties
- q Advance ruling on the customs valuation method applicable to imports traded between related parties : ACVA (Advance Customs Valuation Arrangement)

3. Period required for the VAR

- q Ordinary imports: within 1 month after the application
- q Imports between related parties: within 1 year after the application due to the complexity of the transaction between related parties



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I . Overview

4. Advantages

- q Taxpayer : resolving burden of additional taxation resulting from Customs' post clearance audit
- q Customs : securing stable tax revenue and reducing taxation friction

5. History

- q On Dec. 31, 1990, Valuation Advance Ruling for ordinary imports introduced in the Customs Act of Korea
- q From Jan. 1, 2008, ACVA on transfer price between related parties adopted and entered into force.



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I . Overview

6. Qualification for VAR Application

- q A taxpayer can employ a customs broker as an agent for the process of the ACVA application.
- * A law firm or an accounting firm can not work as a direct agent for the ACVA application under the current legislation, but can give legal or accounting advice indirectly to taxpayers.

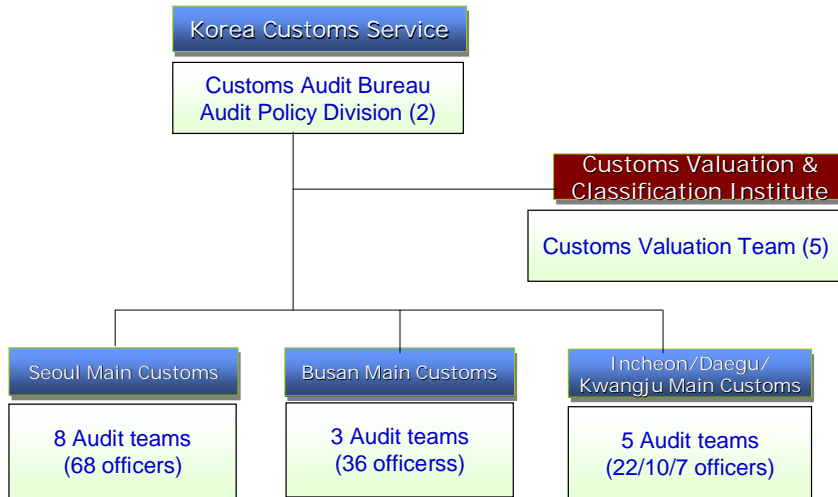
7. Organization for Operation of the VAR

- q Customs Valuation Team, Customs Valuation and Classification Institute (CVCI), under the Korea Customs Service



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<Org. for Customs Valuation of KCS>



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I . Overview

8. Revision of Customs Act for Valuation Advance Ruling

q Since firstly introducing the VAR for the ordinary import in Dec. 31, 1990, KCS has handled only factors to be added or deducted from the price actually paid or payable, requirements for acceptance of transaction value regardless of relations between traders until Jan. 1, 2008 introducing separate VAR on transactions between related parties.

VAR on transactions between unrelated parties is comparatively simple compared to ACVA

Focus on ACVA



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II -1. VAR for Ordinary Imports

1. Scope for application

q VAR Application for ordinary imports is confined to following matters.

- o Confirmation on factors to be added or deducted from the price actually paid or payable
- o Confirmation of requirements for acceptance of transaction value
 - influence of the conditions or considerations for the sales
 - restrictions on disposal or use of the imported goods,
 - after-importation proceeds accrued to the seller,
 - influence of special relations between traders

=> regarding the Provisions of Article 1 and 8 of the WTO Customs Valuation Agreement



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II -1. VAR for Ordinary Imports

2. Application of the VAR

q A company should submit an application form with the supporting documents to the Commissioner of the KCS before filing value declaration

q Required supporting documents for application :

- o Basic contract on the trade relation such as investment contract, agency contract, technical service contract, technology introduction contract, etc.
- o Business plan relating to the importation of the goods
- o Supply contract of imported goods
- o Basic materials for determining the customs value; and
- o Other materials necessary for determining customs value



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II -1. VAR for Ordinary Imports

3. Processing of VAR Application

- q If application documents are insufficient, submission of additional documents may be requested within 15 days.
- q If requested documents are not provided, the application can be denied
- q If 15-day-period is not enough, it can be extended
- q Certificate of a VAR is issued to a taxpayer within 1 month
- q The certificate is delivered to the Collector of customs office of entry, too

4. Legal effect of VAR

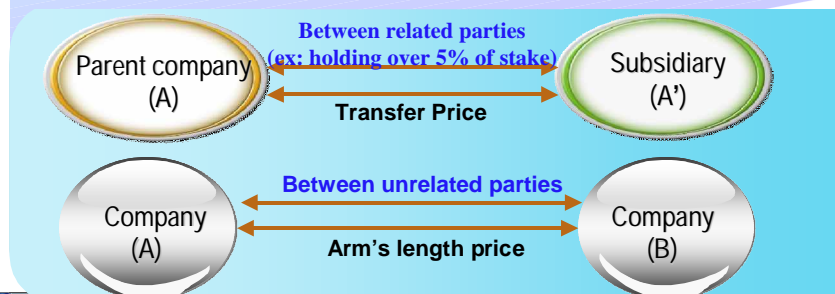
- q Collector of customs office of entry determines the customs value of imports according to the method stated in the properly issued certificate of VAR unless conditions are changed.

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II -2. ACVA

1. Transfer Price

- ◆ Price applied to transactions between a domestic company and its overseas related party
- Both sides **determine the price** in consideration of various factors including **tax burden**, anti-dumping duties, FX rate, price control, Cash flow, etc.



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II -2. ACVA

2. Definition

- Process in which Customs authority examines, on application of a taxpayer, the method for determining customs value of imports traded between related parties such as an overseas parent company and its domestic subsidiary in advance prior to the value declaration, and exempt from or postpone a post audit for 3 years

3. Legal Basis

- Customs Act: Definition of ACVA & Scope for its application
- Presidential Decree of the Enforcement of Customs Act :
Period for examination, Requirements for determining customs value based on ACVA results
- Commissioner's Notice & Order : Detailed ACVA procedures



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II -2. ACVA

Article 37 of the Customs Act (Valuation Advance Ruling)

- If a person who is liable to declare the payment of duty under paragraph 1, Article 38 has any doubt about the following matters which are the basis for determination of the customs value, he may request the Commissioner of Korea Customs to examine it in advance prior to the value declaration.
- Scope for examination of the VAR
 - The amount to be added or deducted from the price actually paid or payable
 - Whether or no it meets the requirements for acceptance of the transaction value declared, that is, influence of the conditions or considerations for the sales, restrictions on disposal or use of the imported goods, after-importation proceeds accrued to the seller and the influence of special relations between traders.
 - Methods for determination of customs value of the imports transacted between related parties
- Commissioner should notify the ACVA results to the applicant.
- Customs accepts customs value of imports declared by a taxpayer based on the notified results.



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II -2. ACVA

Article 31 of the Enforcement Decree of the Customs Act

- Period for examination of the VAR is 1 month for ordinary imports and 1 year for imports traded between related parties.
- Documents required for VAR application shown in the slide 10.
- Requirements for determining customs value based on ACVA results
 1. Applicant under Article 37(1) of the Act should be identical to the taxpayer
 2. Documents submitted for the ACVA under paragraph 1 should be truthful and consistent with the actual value declaration
 3. Trading relation and particulars which are the basis of the ACVA results, are not changed.
 4. Revision of legislation does not change contents of the ACVA results



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II -2. ACVA

4. Relation between Post Audit & ACVA

- An already ongoing post audit is not suspended by ACVA application.
- However, in case a company which ACVA is undergoing on, is selected for post audit, Customs post audit on the company can be postponed.

5. Pre-consultation

- A taxpayer can request pre-consultation to the Head of the Customs Valuation and Classification Institute before applying for ACVA
- Request for pre-consultation can be also made anonymously.
- The Head of the CVCI should provide the taxpayer a consultation opportunity within 15 days to 1 month from the day of request.



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II -2. ACVA

6. Application Procedures & Required Documents

- A company should fill out an ACVA application form and submit it with the supporting documents to the Head of the CVCI without any application fee
- Supporting documents required;
 1. Materials for explaining business details including history, organization, investment relationship, etc. of both trading parties
 2. Financial statement, ALP declaration (tax declaration) over the recent 3 years
 3. Basic contract on the trade relation such as investment contract, agency contract, technical service contract, technology introduction contract, etc.
 4. Basic materials for determining the customs value of imported goods
 5. Document on APA approval from NTS, if applicable
 6. Report of transfer price produced by an accounting firm, if applicable
 7. Materials on whether special relations have influenced the value
 8. Other materials necessary for determining customs value



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II -2. ACVA

7. Procedure for examining ACVA Application

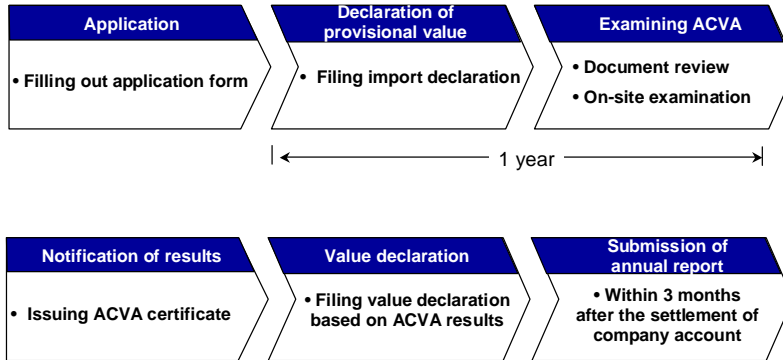
- The ACVA application form and accompanied documents are examined by 『ACVA T/F』 temporarily established in the Customs Valuation and Classification Institute
- With the prior consent of the applicant, Customs can request private experts in neutral positions, in the area of customs valuation, law, corporate accounting, TP taxation, etc. to provide professional opinions regarding the methods of determining customs value for reference.
- In such case, the customs can charge the applicant the expenses required for such professional advice.



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II -2. ACVA

8. Processing of ACVA



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II -2. ACVA

9. Revision & Withdrawal of ACVA Application

ç If there is any change in the contents of the transaction before completing examination on the ACVA, the applicant can revise or withdraw the application.

10. Effect of ACVA Results

ç Customs authority should accept the value declaration as appropriate, only when a company makes it according to the valuation method determined through the ACVA process during the specified period of validity of ACVA certificate.



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II -2. ACVA

11. Import Declaration after ACVA Application

q After applying for ACVA, a company can make an import declaration using a provisional value and it is exempted from a penalty tax for a change in customs value as a result of ACVA.

12. Retroactive Effect of ACVA Results

- q ACVA results are applicable only to imports declared within 3 years after its completion and not applied retroactively.
- q However, for an over or less paid tax amount found in the ACVA process, the customs can directly refund the overpaid amount or request the taxpayer to pay the less paid amount.



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II -2. ACVA

13. Cancel, Change and Renewal of ACVA

q The Head of the CVCI can cancel the ACVA results in the following cases;

- ① When requested additional material is not provided for an important missing part of the annual report despite requested to submit by the customs
- ② When an important part of the annual report is false
- ③ When there is a change in an important part of a precondition or supposition for the ACVA results
- ④ When the value declaration of the applicant doesn't conform to the approved valuation method or its requirements
- ⑤ When the approved valuation method becomes inappropriate as a result of a change in relevant domestic or international laws and regulations.

q In cases of the above ③④⑤, the applicant can apply for a change in the original ACVA results, and after the expiration of the period of validity of ACVA, the applicant can apply for its renewal.



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II -2. ACVA

14. Information Confidentiality

- q Documents submitted by a company for ACVA application should not be disclosed to others for other than the original purpose.
- q Private experts participating in the ACVA process are not allowed to disclose ACVA information to other than the persons directly related to the ACVA.
- q In case rejecting ACVA application, the Head of the CVCI should return all the submitted documents to the applicant.



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II -2. ACVA

15. Advantages & Disadvantages of ACVA

- q **Advantages**
 - o Reducing taxpayers' burden of post audit on transfer price and additional tax caused by change of customs value
 - o Saving administrative resources and securing stable tax revenue
- q **Disadvantages**
 - o Increasing expenses relating to accounting and legal affairs for ACVA application and preparation of required documents
 - o Increasing burden of human and physical resources needed to analyze massive ACVA application data.



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II -2. ACVA

16. Formation of ACVA T/F

- q One ACVA T/F in the CVCI exclusively covers ACVA business
- q The Head of the CVCI organizes the TF taking into consideration the number of ACVA applications, size of applying companies, type of industry, workload, etc..
- q The ACVA T/F usually consists of 5~7 officials

17. Requirements for ACVA Officials

- q Comprehensive knowledge and experience needed to examine transactions between related parties such as customs valuation, corporate accounting, ALP calculation method for internal taxes, etc..
- q CBCTC under Korea Customs operates ACVA training program.
 - o Theoretical and practical training on TP guideline, WTO Customs Valuation Agreement, transfer price valuation, comparison of valuation methods between the Customs Act and the Adjustment of International Taxes Act, etc



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II -2. ACVA

18. Roles of Members of ACVA TF

- q Officer of the headquarter(1) : overall coordination of law & legislation
- q Officers of the CVCI(2) : ACVA application business, pre-consultation, matters of customs valuation, etc..
- q Officers seconded from Customs offices(2) : examination of submitted documents in the light of Company audit & accounting

19. Computer System for handling ACVA

- q Korea Customs uses its own database to review comparable values
- q Availing corporate accounting data of credit rating firms to select comparable companies and calculate usual profits and general expenses.



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III . Future Plans

1. Establishment of permanent ACVA Team

- q Building a dedicated ACVA team in the CVCI (composed of 7 officials)
- q Main Operations
 - ① Exclusively dealing with ACVA business
 - ② Studying ways to apply APA results in customs valuation
 - ③ Developing ways to adjust differences between transfer pricing method and customs valuation method
 - ④ Joining international activities to harmonize transfer pricing taxation and customs valuation
- q Planning to launch ACVA Division under the Audit Bureau of Seoul Main Customs in the long term



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III . Future Plans

2. Compilation of ACVA Manual for Taxpayers

- q Making an ACVA manual for both taxpayers and customs officers to promote credible tax payment
- q Contents of the Manual
 - o Customs valuation methods for transfer price recognized in the customs valuation agreement
 - o Comparison between transfer pricing taxation and customs valuation
 - o Criteria for influence of special relations on the sales price
 - o ACVA cases, etc



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III . Future Plans

3. Improvement program for ACVA

- Computerization of P & GE calculation process used in applying deductive value method
 - Selecting comparable companies through link analysis of audit data of the customs and accounting data of credit rating companies
 - automated calculation of gross profit rate

- Improvement in methods of judging whether or not special relations influence on transaction value
 - Diversification of judgment methods by developing examples of independent transactions
 - Development of specific standards for accepting approximate value in reviewing comparable values



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III . Future Plans

4. Launch of an Official Channel for Cooperation of both Customs and Internal Tax authorities

- Formation of 「Relevant Agency Consultation Meeting」
 - Holding regular meetings (1st: Mar.26, 2008, 2nd: Apr.30, 2008)
 - Hosted by MOSF, attended by NTS and KCS
 - Reviewing legal amendment for easing differences in taxation

- Launch of 「Business-Customs Joint TF」 (KCS)
 - Composed of transfer pricing experts from foreign-invested companies, customs brokers, law firms, accounting firms, KCS and NTS,
 - Studying institutional/practical ways for harmonization

- Review on signing MOU with NTS for Cooperation on transfer pricing
 - Information exchange, joint investigation, cross participation in APA/ACVA



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Thank you,
all the participants!



WORKSHOP ON APPLICATION OF
VALUATION CRITERIA IN ADVANCE
RULINGS IN APEC MEMBER
ECONOMICS.

Presented by: Mr. Johari Alifiah

**WHAT IS AN ADVANCE RULING (AR)
AN AR IS SYNONYMOUS WITH:-**

- § ‘customs ruling’
- § ‘binding ruling’

AN AR ARE ISSUED FOR:-

- § “tariff classification”
- § “valuation”; and
- § “origin”

WHY ISSUE AN ADVANCE RULING?

'Provide traders with predictable information in advance of the movement of goods in order to facilities compliance with customs and other authority requirements'

AR FACILITATE TRADE BY:-

- | Providing certainty for traders and agents,
- | Promoting consistency and equity in the trading process and application of the law,
- | Establishing confidence between authority and traders; and
- | Encouraging compliance and minimizing delays, complaints and appeals.

HOW IS AN AR ISSUED?

- AR should be issued at the written request of traders (any person).
- AR issued within a defined period of the time.
- AR are to be issued in form of written advice (or statement).
- AR are based on complete and accurate information. It is the obligation of the trader to provide all relevant information.

HOW IS AN AR ISSUED?

- | If the information provided is insufficient, the authority will not issue an AR. The authority must not be bound by any misapplication of the ruling by an importer,
- | Misinformation must render an AR void,
- | The ruling should be based on factual information and a ruling should not be issued if a request is hypothetical in nature.

HOW IS THE RULING TO BE APPLIED?

- | AR are binding on competent authority for period of time specified on the written advice.
- | The ruling should be honoured nationally, unless it has been revoked.
- | The ruling should be applied to importation without regard to the identity importer, exporter or producer, provided the facts relating to the imported good are identical in all aspects (public ruling).

HOW IS THE RULING TO BE APPLIED?

- | The administrations must maintain the option to modify or revoke an AR at any time, should factual or legal circumstance change and/or when inaccurate or false information has been provided.
- | The trader should advise the Authority of any changes related to a ruling.
- | Notification or any revocation or modification of an AR, and the effective date thereof should also be in writing.

A Brief Guide To Customs Ruling In Malaysia

- | The are no definitive rules on how an AR system should be set up and implemented.
- | The system can be implemented either by legislation or by an administrative arrangement.
- | CR is an AR. RMC provide CR as a optional service for the convenience and certainty for traders and such ruling issue shall bind the applicant.

Interpretation

- | Amendment of section 2
 - - “Customs Ruling” means the customs ruling made by the Director General under:
 - o * Section 10B Customs Act 1967;
 - * Section 11B Sales Tax Act 1972;
 - * Section 6B Service Tax Act 1975;
 - * Section 5B Excise Act 1976.

Application For Customs Ruling

Section 10A(1) Customs Act 1967.

- Any person may apply, in the prescribed form together with the prescribed fee, to the Director General for a customs ruling in respect of any one or more of the following matters:
 - (a) the classification of goods;
 - (b) the principles to be adopted for the purposes of determination of value of goods; or
 - (c) on any other matters to be prescribed by the Director General.

Application For Customs Ruling

Section 10A(2) An application under subsection (1) may be made-

- (a) in respect of imported goods
 - (i) at any time before the goods, that are subject matter of the application, are to be imported.
 - (ii) at any later time, if the Director General may in his discretion permit; or

Application For Customs Ruling

- (b) In respect of manufactured goods
 - (i) at any time before the goods that are the subject matter of the application, are to be manufactured; or
 - (ii) at any later time, if the Director General may in his discretion permit.

Application For Customs Ruling

Section 10A(3) -

An applicant may withdraw his application at any time before a customs ruling is made and any payment made relating to the application for the customs ruling shall be forfeited by the Director General.

Making Of Customs Ruling

Section 10B(1) Subject to subsection (3), -

1. The Director General shall make a customs ruling in respect of any matter specified in the application made under section 10A and such ruling shall bind the applicant.
2. Any such customs ruling may be subject to such conditions as the Director General may deem fit to impose.

Making Of Customs Ruling

The Director General may decline to make a customs ruling if, in his opinion –

- (a) The information given by the applicant is insufficient to do so;
- (b) The application is for a hypothetical situation; or
- (c) An appeal under this Act is pending involving the subject matter referred to in the application.

Amendment, Modification or Revocation of Customs Ruling

1. Section 10C(1) A customs ruling may be amended, modified or revoked by the Director General if –
 - (a) it contains an error which needs to be corrected;
 - (b) the customs ruling was based on an error of fact or law;
 - (c) there is a change in law relating to customs; or
 - (d) there is a change in the material fact or circumstances on which the ruling was based.

Amendment, Modification or Revocation of Customs Ruling

2. The Director General shall, immediately after making the amendment, modification or revocation, give a notice in writing to the applicant of the amendment, modification or revocation and, subject to subsection (3), such amended, modified or revoked customs ruling shall take effect from the date stated in the notice.

Amendment, Modification or Revocation of Customs Ruling

3. Notwithstanding subsection (2), where a customs ruling has the effect of causing or increasing any duty liability in respect of any goods, and –
- (a) the goods are imported within 3 months of the date the notice of the amendment, modification or revocation is given, pursuant to a binding contract entered into before that date;

Amendment, Modification or Revocation of Customs Ruling

- (b) The goods have left the place of manufacture or warehouse in the country from which they are being exported for direct shipment to Malaysia on the date the notice of the amendment, modification or revocation of the ruling is given; or
- (c) The goods are imported on or before the date the notice of the amendment, modification or revocation is given but have not been released for home consumption.

Amendment, Modification or Revocation of Customs Ruling

(continued)...

then the customs ruling which was made prior to the amendment, modification or revocation under this section shall be applied to such goods.

(4) Notwithstanding subsection (2); and subject to section 16, if the amendment, modification or revocation to a customs ruling has the effect of decreasing any duty liability in respect of any goods, any higher duty that has been paid shall be treated as if it has been paid in error.

Director General To Declare Rulings To Be Null

Section 10D – “The Director General shall by a notice declare to customs ruling made under Section 10B to be null, void and of no effect if the ruling has been obtained by the applicant by way of fraud, misrepresentation or falsification of facts”

Receiving Of Two Customs Ruling

Section 10E – “Where an applicant receives two or more different customs ruling on the same subject matter, such rulings shall be treated as being null and void and such applicant shall immediately notify the Director General who shall, within thirty days from the date of the notification, issue a new customs ruling.”

Customs (Customs Ruling) Regulations 2007

In exercise of the powers conferred by Section 142 of the Customs Act 1967, the Minister make the following regulations:

- 1(1) Customs (Customs Ruling) Regulations 2007
- (2) These Regulations come into operation on 1 April 2007

Application For Customs Ruling

- 2 (1) An applicant for a customs ruling shall be made in Schedule A and accompanied by a processing fee of two hundred ringgit.
- (2) The Director General may in writing, at any time, require the applicant to provide within a period of thirty days or any extension of time granted by the Director General, such additional documents or information as may be deemed necessary by the Director General.

Application For Customs Ruling

(continued...)

- (3) Where any additional document or information required under sub-regulation (2) is not provided by the applicant within the period or any extension of time granted by the Director General, the application shall be deemed to have been withdrawn and shall not be further proceeded with.
- (4) Without prejudice to sub-regulation (3), the applicant may make a fresh application for a customs ruling to the Director General and requirement under sub-regulation (1) shall be applicable.

Issuance Of Customs Ruling

- 3 (1) Subject to sub-regulation (2), the Director General shall issue a customs ruling within a period of ninety days after the receipt of-
- (a) the duly completed schedule A;
 - (b) any additional document or information as required by the Director General under sub-regulation 2(3); and
 - (c) the processing fee under sub-regulation 2(1)

Issuance Of Customs Ruling

(continued...)

- (2) Where an analysis is required to be conducted pursuant to regulation 3, the Director General shall issue a customs ruling within a period of sixty days from -
- (a) the receipt by the Director General of the analysis report; and
 - (b) the analysis fee has been paid by the applicant.
- (3) A customs ruling issued under this regulation shall be in Schedule B.

Analysis By Any Party Determined By The Director General

4. Upon receipt of documents referred to in paragraphs 3(1)(a),(b) and (c), the Director General may, if he considers that an analysis is required to be conducted before a customs ruling is made, the Director General shall refer the matter to such person and body as may determine and any fee incurred for the purpose of the analysis shall be borne by the applicant.

Validity Of Customs Ruling

- 5(1) A customs ruling shall be valid for a period of three years from the date stated in the customs ruling.
- (2) Notwithstanding sub-regulation (1), where the Director General amends, modifies or revokes customs ruling shall take effect from the date specified in the notice to amend, modify or revoke such customs ruling.
- (3) For the purpose of section 10D of the Act, where the Director General declare by a notice that a customs ruling is null, void and of no effect, the declaration shall take effect from the date stated in the notice.

Confirmation Of Basis Of Customs Ruling

- 6(1) The Director General may in writing, require the holder a customs ruling to confirm within a period of thirty days or any extension of time granted by the Director General.
- (a) that the facts or information on the basis of which the customs ruling was made by the Director General remain unchanged; and
 - (b) that any condition imposed in the customs ruling has been complied with by the holder.

Confirmation Of Basis Of Customs Ruling

Continued.....

- (2) Where the confirmation under sub-regulation (1) is not provided by the holder of the customs ruling within the period of any extension of time granted by the Director General, Director General shall by notice in writing withdraw the customs ruling and such withdrawal shall take effect from the date as specified in the notice.

Renewal Of Customs Ruling

7. (1) An application for the renewal of customs ruling may be in schedule C not later than three months before the date of expiry of the customs ruling.
- (2) The Director General may issue a renewal of the Customs ruling with or without imposing any condition on the ruling or refuse to issue a renewal of such ruling.
- (3) A renewal customs ruling shall be valid for a period of two years from the date of its original expiry, after which the person making the application shall be a new application as set out in regulations 2.

Request For Certified Copy Of Customs Ruling

8. The holder of a customs ruling may request from the Director General a certified copy of the holder's ruling and certified copy shall be subject to a fee of fifty ringgit.

Secretariat Of Customs Ruling (SCR)

Advisor SCR
Director Of Customs
Technical Services Division

Chief Of The Section

- Valuation Management And Post Clearance Audit Branch.
- Classification, Tariff And Gazette Branch
- Sales Tax Branch
- Services Tax Branch
- Excise Branch

Secretariat

- Senior Assistant Director Of Customs

Staff

Assistant Director Of Customs
Customs Officer
Clerk
Typist

THANK YOU

Advance Rulings

Valuation and Special Programs Branch

Office of International Trade

U.S. Customs



U.S. Customs and
Border Protection

Purpose

- § Advance Rulings inform the trade and public of legal requirements
- § Advance Rulings give certainty to business transactions



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Legal Basis

- § Advance ruling process is governed by Part 177, CBP regulations; 19 CFR Part 177
- § An advance ruling is a written statement issued by CBP that interprets and applies Customs laws and regulations to a specific set of facts about a prospective transaction
- § A ruling states the official position of CBP and is binding on both Customs and the importer



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Ruling Request

- § An importer, exporter or producer of merchandise, who has a direct interest in the question presented, may request a ruling by submitting a letter containing required information.
- § Request must pertain to prospective customs transactions



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Obtaining a Ruling from CBP

§ Request may be sent directly to Headquarters:

Director, Commercial and Trade Facilitation Division

Office of Regulations and Rulings

U.S. Customs & Border Protection

1300 Pennsylvania Avenue, N.W.

Washington DC 20229

§ Rulings are provided free of charge.



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What Should A Ruling Request Contain?

“A complete statement of all relevant facts relating to the transaction”

§ **Names, addresses** and other identifying information of all interested parties (if known)

§ Name(s) of the **port(s)** in which the merchandise will be entered (if known)

§ **A description of the transaction**, appropriate in detail to the type of ruling requested

§ Statement of position and basis for that position



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What Should A Ruling Request Contain?

§ A statement that there are, to the best of the exporter's or importer's knowledge, **no issues** concerning the commodity for which a ruling is sought **pending** before Customs & Border Protection (including Headquarters and field offices or ports of entry) or before any court (including the U.S. Court of International Trade or U.S. Court of Appeals for the Federal Circuit)

§ A statement indicating whether **advice has been previously sought** from CBP concerning the commodity for which a ruling is sought, and if so, then from whom and what advice was rendered, if any.



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“Description of the Transaction”

§ The Customs transactions must be described in sufficient detail to permit the proper application of relevant Customs and related laws

§ Relevant documents should be provided (contracts, invoices, etc.)



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“Description of Transaction”

Classification Rulings

- § A full and complete **description of the goods**.
- § **Samples** (if practical, or photographs, drawings or other illustrative material)
- § **Any other information** or materials that may be pertinent or required for classifying the merchandise



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“Description of Transaction”

Valuation Rulings

- § Description of the nature of the transactions (terms of sale)
- § The relationship (if any) of the parties
- § Whether transaction was at arm's-length
- § Any other information relevant to a determination of the value
- § The required information depends on the issue presented. For example, if the issue is whether the commission paid by the buyer is a buying or selling commission, all the details and documentation pertaining to the roles of the parties and the payment of the commission would need to be submitted.



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Valuation Rulings

§ Address general principles regarding the application of the value law

§ Examples:

§ Is there a sale?

§ Does transaction value apply?

§ Are specific payments made by the buyer to the seller included in the price actually paid or payable?

§ Should a royalty payment be added to the price actually paid or payable?

§ Is a related party transaction an acceptable transaction value?

§ In a case involving computed value, are certain expenses included in the profits and general expenses calculation?



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Additional Information on the Rulings Process

§ If the request does not comply with requirements, requestor is notified in writing and is normally given 30 days to provide the requisite information

§ Requestor may request a conference

§ Requestor must give notice of change in status of transactions

§ Requestor may withdraw its ruling request prior to issuance



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Issuance of Rulings

§ CBP will endeavor to issue the ruling within 90 days of receiving the request.

§ Importer attaches a copy of the ruling to his entry documents

§ CBP issues an advance ruling on the assumption that the information provided is accurate and complete. CBP may verify the facts of an actual transaction upon importation to ensure they are the same as those described in the ruling letter.



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Applying Rulings

Classification Ruling

§ Applied only with respect to transactions involving articles identical to the samples submitted with the ruling request or to the articles whose description is identical to the description set forth in the letter.

Valuation Ruling

§ Applied to transactions involving the same merchandise and like facts

A principle in a ruling may be cited as authority in the disposition of transactions involving the same circumstances.



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Confidential or Privileged Information

§ A requestor may request confidential treatment for proprietary business information such as financial information or trade secrets.

§ Must clearly identify confidential information

§ Must provide reasons why information is exempt from disclosure

§ If the request is granted, the confidential information will be omitted from the published ruling.

§ The goal is for rulings to provide sufficient detail to be useful to traders other than the requestor.



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Publication of Rulings

§ Rulings are published on the CBP web site at www.cbp.gov for easy reference by the importing public.

§ For general information purposes, this body of rulings can provide useful insight into the application of Customs and related laws.

§ The Customs Rulings and Online Search System (CROSS) contains rulings issued since 1989 until the present.



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Secure Border Initiative
11/02/2005
The Secure Border Initiative (SBI) is a comprehensive multi-year plan to secure America's borders


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Hurricane Recovery and Relief



Avian Flu
11/02/2005



Visa Waiver Program (VWP)
11/04/2005

**Alert Level Yellow
ELEVATED CONDITION**



what's new?

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- CBP Today
- Bioterrorism
- Free and Secure Trade Program (FAST)
- Border Wait Times
- Airport Wait Times
- NAFTA
- Customs Rulings Online Search System (CROSS)

U.S. Customs & Border Protection - Microsoft Internet Explorer pro...
Address: http://rulings.cbp.gov/

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DHS.gov

CROSS CUSTOMS RULINGS ONLINE SEARCH SYSTEM

SEARCH [HELP](#) | [ABOUT](#)

Collection: NAFTA Filter: 50 results per page View

CROSS is a searchable database of CBP rulings that can be retrieved based on simple or complex search characteristics using keywords and Boolean operators. CROSS has the added functionality of CROSS referencing rulings from the initial search result set with their modified, revoked or referenced counterparts.

Rulings collections are separated into Headquarters and New York and span the years 1989 to present. Collections can be searched individually or collectively. For more information about features or how to use CROSS, please visit the [HELP](#) section.

What's New

CROSS was last updated **11/2/2005** with **244** rulings, bringing the total number of searchable rulings to **126033**. The most recent ruling is dated **10/28/2005**.

Related Trade Information

[Downloadable rulings](#) - downloadable rulings spanning 1990 to present.

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Address <http://rulings.cbp.gov/index.asp>

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CROSS CUSTOMS RULINGS ONLINE SEARCH SYSTEM

SEARCH GO

Collection ALL HQ NY NAFTA Filter OFF 10 results per page View

Results [1-10] of 2883 records | Search took 0.08 seconds | 170 users

Ruling Category	Tariff No	Ruling Reference	Related
MARKING	NY 89178	COUNTRY OF ORIGIN MARKING OF IMPORTED COFFEE; ARTICLE 509	
MARKING	NY 89836	COUNTRY OF ORIGIN MARKING OF AN IMPORTED ANODE CONNECTOR HARNESS; ARTICLE 509	
Classification	HQ 958361 6302.40.20	NAFTA Eligibility and Classification of Table Coverings Dear Mr. King.	References 657070
	HQ 580028	NAFTA; 19 CFR Part 181; transshipment; originating	
Classification	HQ 582291	NAFTA eligibility; NAFTA Preference; Mexico; apparel; men's worktrousers; GN 12(f)/62.16, HTSUS; interlining; pocket; UniFirst	
MARKING	NY 89938	COUNTRY OF ORIGIN MARKING OF IMPORTED MUSHROOMS; Article 509	
Marking	NY 805140	Country of Origin Marking of an Imported Bee Hive Tool	
MARKING	NY 803679	Country of origin marking of a lighted seamripperthreader.	

Address <http://rulings.cbp.gov/index.asp>

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CROSS CUSTOMS RULINGS ONLINE SEARCH SYSTEM

SEARCH GO

Collection ALL HQ NY NAFTA Filter OFF 50 results per page View

Results [1-50] of 87 records | Search took 0.02 seconds

Date	Rank	Ruling Category	Tariff No	Ruling Reference	Rel
11/10/1999	38.4%	Classification	NY E88009 6204.62.4020	The tariff classification, status under the North American Free Trade Agreement (NAFTA), Article 509, of women's woven trousers from Mexico.	
2/21/2002	30.4%	Classification	HQ 562291	NAFTA eligibility; NAFTA Preference; Mexico; apparel; men's worktrousers; GN 12(f)/62.16, HTSUS; interlining; pocket; UniFirst.	
3/12/1996	20.8%	Classification	HQ 958538 6203.43.4010 6203.43.4020	Country of Origin of Men's and Boys' Trousers for NAFTA, Marking, Duty, and Quota Purposes; Article 509	
6/12/2002	19.2%	Classification	NY 182093 6203.42.4005 6203.42.4010	The tariff classification and status under the North American Free Trade Agreement (NAFTA), of men's pants from Mexico; Article 509	

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SEARCH deductive value GO HELP | ABOUT

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Results [1-50] of 160 records | Search took 0.02 seconds | 118 users

Date	Rank	Ruling Category Tariff No	Ruling Reference	Related
4/19/1988	32%	HQ 543912 Valuation	Internal Advice No. 4786	
8/9/1994	19.2%	HQ 545505 Valuation	Internal Advice 34/93; price actually paid or payable; computed value	References 543226
8/16/1995	18.1%	HQ 545960 Valuation	Application for Further Review of Protest No. 0101-95-100029; Related Parties; 19 U.S.C. 1401a(f); Value if Other Values Cannot be Determined.	References 543568
3/26/1996	17%	HQ 546120 VALUATION	Application for further review of Protest No. 1303-94-100202; deductive value; 19 U.S.C. 1401a(c); 19 U.S.C. 1401a(f)	References 545303 , 545187
3/14/2000	16%	HQ 547381	Merchandise Imported for Sale at Auction; reserve price: \$402ff	References

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SEARCH deductive value greatest aggregate quantity GO HELP | ABOUT

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Results [1-26] of 26 records | Search took 0.19 seconds | 124 users

Date	Rank	Ruling Category Tariff No	Ruling Reference	Related
8/10/1992	12.8%	HQ 544784 Valuation	Proper Appraisement for Merchandise Under Deductive Value;	
8/20/1990	4.8%	HQ 544469 Valuation	Decision on Application for Further Review of Protest No. 3001-8-000149	References 544361
1/29/1997	4%	HQ 546602	Application for Further Review of Protest No. 2501-96-10026; Appropriate method of appraisement for fresh asparagus; Sale for exportation; Deductive value under □402(d); HRLs 545755, 543000, 543848	References 545755 , 543000 543848
3/23/1999	3.6%	HQ 546442 Valuation	Request for a Ruling regarding Appraisement of [xxxxxxx]; Deductive Value; 19 U.S.C. 1401a(d); Fallback Method; 19 U.S.C. 1401a(f).	References 545313 , 546120

Modification & Revocation of Rulings

- § CBP may modify or revoke rulings that are found to be in error or no longer in accordance with the official position of CBP.
- § Generally modifications and revocations must be published in the Customs Bulletin in accordance with 19 USC 1625 for public comment prior to final action.
- § The effective date of a modification or revocation is delayed for 60 days to give the trade time to adapt to the new ruling. However, an importer whose ruling has been modified or revoked may request application of the new ruling on or after the date of publication of the new ruling in final form in the Customs Bulletin.



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Advance Rulings & Trade Facilitation

- § The U.S. advance rulings program has increased certainty for traders by providing improved information concerning the trade community's rights and obligations.
- § It promotes voluntary compliance with these laws as well as consistent treatment at all U.S. ports.
- § It also facilitates trade by lessening the time CBP needs to make decisions at the border.



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Part III.
Workshop Development

Workshop Development

First day: May 23

In the first day the working materials prepared for the workshop were distributed to participants. Such material included:

- Legislation of experienced Member Economies
- Power Point presentations for the workshop
- Work documents from expert member economies related to logistic issues, framework of standards and operational process
- Comparative matrix on application process by each expert member economy

During the day, experts from Malaysia, Japan, Korea, United States and Australia presented the experiences of their economies in Valuation Advance Rulings application in the following areas:

- **Logistic issues required for implementation:** Information related to staff necessary to issue rulings, best location in organizational hierarchy for the office issuing rulings, marketing and information dissemination to users before implementation.
- **Computing systems required for application:** Information related to use of computing systems in Advance Rulings issuance.
- **Framework of standards and legal features:** Information related to binding features on issued rulings, information confidentiality, and appeal and review of issued rulings.
- **Operational process:** Information related to format of the ruling and means of application, applicants' nature, required complementary documentation, issuance time, service fees and ruling validity, publication, renovation and modification and/or revocation.
- **Benefits:** Information related to achievements and benefits for experienced member economies in clearance time and costs reduction, trade facilitation, expedited clearance, legal security and higher users' satisfaction.

Second day: May 24

Work groups were formed with all attendees to the workshop including speakers to analyze and discuss best practices identified by each work group.

Each work group developed a Comparative Matrix on experiences presented by speakers, which contains best practices identified in Valuation Advance Rulings' application process.

Groups were comprised as follows:

GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
Johari Alifiah (MALAYSIA)	Nobuyuki Shokai (JAPAN)	Chung Il Sok (KOREA)	Fernando Peña (UNITED STATES)	Wayne Baldwin (AUSTRALIA)
Natina Santiyanont (THAILAND)	Syarif Hidayat (INDONESIA)	Mai thi Van Anh (VIET NAM)	Ji Wei (CHINA)	Chen Mao Pao Chen (CHINA TAIPEI)
Mikhail Antipov (RUSSIA)	Ruben Cuba (SUNAT-PERU)	Lili Bardales (SUNAT-PERU)	Luis Muñoz Santander (CHILE)	Rafael Mallea (SUNAT-PERU)
Luis Vasquez (SUNAT-PERU)	María Kobashigawa (SUNAT-PERU)	Mildred Quiñonez (SUNAT-PERU)	Yu-Ying Kuo (Chinese Taipei)	Rocio Dianderas (SUNAT-PERU)
Patricia Su (SUNAT-PERU)	Cecilia Pantoja (SUNAT-PERU)	José Palomino (SUNAT-PERU)	Jeymerd Bello (SUNAT-PERU)	Gonzalo Enriquez (SUNAT-PERU)
Sandra Aranda (SUNAT-PERU)	Gloria Ramirez (MINCETUR-PERU)	Paul Bravo (SUNAT-PERU)	Gladys Nichols (SUNAT-PERU)	Luis Arroyo (SUNAT-PERU)
Luis Sandoval (SUNAT-PERU)			Gustavo Romero (SUNAT-PERU)	
			Fernando Cerna (MINCETUR-PERU)	

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Part V.

Workshop Outcomes

Workshop Outcomes

As a result of the Workshop on Application of Valuation Criteria in Advance Rulings in APEC Member Economies, information from Australia, Japan, Korea, Malaysia and United States was shared on their experience in the application of Valuation Advance Rulings, which enabled to produce the Comparative Matrix in the application process of Valuation Advance Rulings. This matrix was distributed as part of the work material in order for the participants to identify in detail the application process in Valuation Advance Rulings followed by each experienced member Economy. Such matrix is included in Part V of this report.

The workshop has also enabled to learn in detail experiences on this mechanism on the following issues: In logistic issues required for implementation, it was collected information related to required staff to issue rulings, necessary computing systems, optimal location in organizational structure of the office issuing rulings, publicity and dissemination of information to users before implementation. Regarding the framework of standards and legal issues, we were able to learn information related to binding features on issued rulings, information confidentiality, and appeal and review of issued rulings. Likewise, we collected experiences on the operational process regarding information related to format of the ruling and means of application, applicants' nature, required complementary documentation, issuing time, service fees and ruling validity, publication, renovation and modification and/or revocation.

Through discussions and opinion exchange held by work groups, information on best practices were drawn corresponding to each phase of the application process of Valuation Advance Rulings, developing and processing a Comparative Matrix to identify best practices, which was presented by a representative from each group to the workshop participants and which was handed out to attendees before the event was over. Participants mentioned that the matrix would be very useful to identify best practices in the application process of Valuation Advance Rulings since it would serve as a guide to design and conduct its implementation process in their respective economies. Such matrix is included in Part V of this Report.

By the end of the workshop, speakers and participants completed the Questionnaire for APEC Projects, whose results have been compiled and included in Part VI of this Report.

To summarize, attendees actively participated in the workshop through discussion, questions to speakers and teamwork. There was a feedback of information and experiences in order to identify best practices in Valuation Advance Rulings application. Moreover, participants agreed that all collected information would be useful for an efficient system implementation or enhancement.

The following tables comprise the Comparative Matrix on application process of valuation advance rulings, which compiles the application process followed by Australia; Japan; Korea; Malaysia and United States, and the Comparative matrix of topics discussed in the working groups, collecting the best practices identified by each group according to the application by the abovementioned member economies.

COMPARATIVE MATRIX ON APPLICATION PROCESS OF VALUATION ADVANCE RULINGS

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
1	Required staff to issue Advance Rulings	At the beginning stage of operation, there are 7 officers. Secretary (1) – Senior Assistant Directors of Customs; Secretariat staff are assistant Directors of Customs (1); Customs Officers (3); Clerk (1); an a Typist (1).	Currently there are 5 attorneys dedicated to issue Valuation Advance Rulings.	Staff required: 3 persons. 2 officers to issue the ruling and 1 officer to supervise and sign off on the ruling.	The ACVA T/F usually consists of 5-7 officials. Comprehensive knowledge and experience needed to examine transactions between related parties such as customs valuation, corporate accounting, ALP calculation method for internal taxes CBCTC under Korea Customs offers ACVA training program Theoretical and practical training on TP guideline, WTO Customs Valuation Agreement, transfer price valuation, comparison of valuation methods between the Customs Act and the Adjustment of International Taxes Act, etc	Japan Customs does not have officers who devote themselves exclusively to valuation advance rulings. There are 9 regional Customs headquarters, and there are 46 such officers in total who deal with valuation advance rulings issuance.
2	In which organizational structural level is the office issuing Valuation Advance Rulings.	Rulings are issued by the Director General of Customs Malaysia.	Rulings are issued by the Section of valuation, Office of Regulations and Rulings, which is a legal intendency of U.S. Customs & Border Protection in Washington.	Valuation advance rulings are issued by the Valuation section located in the regional office in Melbourne. Valuation policy and review of rulings are administrated by central office in Canberra.	Customs Valuation and Classification Institute (CVCI), Customs Valuation Team, under the Korea Customs Service	Rulings are issued by Regional offices after consulting with the National Valuation Centre who supervises the process. Procedures for written valuation advance rulings have been introduced by the administrative guidelines issued by the Director-General of the Customs and Tariff Bureau, Ministry of Finance. Such guidelines have been updated.

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
3	Physical location of office issuing Rulings. The office is located in Customs headquarters (centralized) or several offices in operational Customs issue Ruling (decentralized)?	It is centralized. The application is submitted to any regional office, but the regional office replicates the application to the headquarters. So, finally, the Rulings are issued by the Director General of Customs Malaysia.	It is centralized. The issuing office is Section of valuation, Office of Regulations and Rulings, U.S. Customs & Border Protection (Customs headquarters) in Washington.	It is centralized. The issuing of valuation advices was centralized in Melbourne, i.e., rulings for anywhere in Australia are now issued by Melbourne (Victoria) due to low volume of advices issued and the need to ensure that staff who issue the advice are experts		It is decentralized. There are 9 regional Customs headquarters in Japan, all of which have valuation officers who deal with valuation advance rulings as part of their responsibilities. In addition, there are 6 valuation officers at the National Valuation Centre, whose responsibilities include the supervision of the valuation advance rulings process.
4	Computerized systems used. Is the request, issuance and publication process of Advance Rulings in Valuation automated?	Still is in process for paperless development stages and needs further improvements.	Only the publication process is automated.	An automated system to register, receive and process Advance Rulings is used. The system has been locally developed by Customs.	Using customs database to review comparable values Using corporate accounting data of credit rating firm to select comparable companies and calculate profit and general expense * KCS needs no additional system as it has all customs-related information	While an application form is downloadable from the Customs homepage, an application cannot be made through the online computer system. Japan Customs has not issued valuation advance rulings through the Customs online network system. Valuation advance rulings are to be made publicly available on the Customs homepage.

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
5	Applicants	Any person may apply for a customs ruling.	Importer, exporter or manufacturer of goods who has direct interest in the question presented.	The advance rulings are issued for a client who has direct interest and make an statement the relevant facts in a ruling request. The client should have a justifiable reason and submit whether a written or electronic request, which should be accompanied by supportive material and relevant facts of such advance ruling. Generally, the client is the importer (or other agent who represent the importer), who request and advance ruling regarding the valuation of imported goods.	Any taxpayer who has a transaction with an overseas exporter A taxpayer can employ a customs broker as an agent * Additional consideration is needed regarding employment of a law firm and an accounting firm for ACVA.	Importers/ customs agents/ other interested parties as buyers, sellers, manufactures or exporters.
6	Obtaining the request form	Is contained in the Schedule A of the Customs Act 1967.	There is no a request form for the valuation advance ruling request or other subjects. Mostly, the applicant requests a ruling by a letter. There are no form requirements but relevant facts, legal provisions should be stated and the requested result should be founded.	Requests for Valuation Rulings (advice) can be requested directly by the computer customs system TAPIN. These could be also requested, as an alternative way, by completing a Valuation Advice Request, Form B 174. Such form is available in Customs and could be downloaded from www.customs.gov.au . This form could be submitted in any Australian Customs. When the Valuation Advice is requested, Customs will register the request with a unique VAN (Valuation Advice Number) and the applicant will be informed about this number.		Form is downloaded from Customs homepage by users.
7	Service Payment	200 ringgit (US\$ 63 approx).	Free of charge.	Free of charge.	Free of charge.	Valuation advice rulings are issued free of charge by Customs.

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
8	Presentation of the advance ruling request	In a written form.	Submit a written letter with necessary information.	Can be lodged electronically or in a written form. In case of electronic application TAPIN system is needed (refer to Tariff and precedents information network fact sheet in handout) , must be lodged to Customs complete supporting documentation within five working days following the lodged, otherwise the application will be voided.		An importer is invited to submit a written request for a valuation advance ruling to one of the regional Customs headquarters, which covers a main Customs office through which the imported goods are to be cleared. While an application form is downloadable from the Customs homepage, an application cannot be made through the online computer system.
9	Who receives the request	An application may be submitted to the nearest Technical Service Division Royal Malaysia Customs. However the applicant is encouraged to submit his application directly to the Technical Service Division Royal Malaysia Customs Headquarters in Putrajaya.	Director, Commercial and Trade Facilitation Division, Office of Regulations and Rulings, U.S. Customs & Border Protection Washington		A company should submit an application form to the Head of the CVCI before filing import declaration and price declaration	Any of the nine regional customs headquarters

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
10	Requested data to be completed in the Form for rulings request	Name of Applicant/N° identification/Address/ Name of the contact/telephone/fax/email/ type of the ruling requested /a complete description of goods/Customs of entry/Valuation topic/Reason for the request/Name of the seller/Contract/ View of the applicant	A complete statement of all relevant facts relating to the transaction. Such facts include Names, addresses and other identifying information of all interested parties, Name of the port in which the merchandise will be entered, a description of the transaction, appropriate in detail to the type of ruling requested.	a complete statement of all facts relevant to the transaction and the subject of the ruling request, relevant facts reflected in any documents submitted should be accompanied by an explanation. These are some documents to be presented: commercial invoices; purchase order; letters of credit; evidence of proof of payment; licensing agreements; warranty agreements.	Required documents: For related parties Basic contract of transaction (investment contract, agency contract, technology outsourcing contract, technology purchase contract, etc.) Business plan related to imports Imports supply contract Documentary evidence on value determination of imported goods Required documents: For unrelated parties Financial statement, ALP declaration (tax declaration) over the recent 3 years Document proving an APA approval has been obtained from NTS, if applicable Transfer price report made by an accounting firm, if applicable Document proving whether special relations have influenced transaction value Other documents necessary to confirm customs valuation methods	Required supporting documents depend on a valuation issue in question.They may include a contract of sale, an agent agreement, a licence agreement, etc.
11	Should a sample of goods be accompanied in the request for advance ruling?	The application must be accompanied by the goods or a sample of the goods, if it is difficult the applicant can discuss the issue with Customs before submitting application.	Samples, if practical, or photographs, drawings or other illustrative material	A picture is needed for a tariff classification ruling but not for a valuation ruling. For valuation, goods are not so important but contracts, agreements, invoices, etc. used to obtain such goods. These documents should accompany the application.		

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
12	Additional information requested by Customs	Additional information must be lodged in thirty days that can be extended. Director-General may require an Analysis Report to an expert body on goods to be imported. The application is withdrawn if user does not submit supporting documents within the term requested by the administration.	Yes, Customs may always request additional information or documents to make a decision. Requestor is notified in writing and is normally given 30 days to provide the required additional information. In case the requirement is not brought in compliance with customs requirement the application will administratively closed and the request removed from active consideration until such time the deficiencies are corrected. A request for a ruling that is removed from active consideration by reason of failing to comply with the customs provisions may be treated as withdrawn,	Where additional information is required to finalize a ruling, Australia provides a period of 28 days for the provision of that information. If the applicant does not provide that information, or request an extension of time to provide the information, Customs will cancel the application.	If documents submitted are insufficient, submission of additional documents may be requested within a set period of 15 days. If requested documents are not submitted, the application can be denied. The 15-day-period is not enough, it can be extended. With approval of the applicant, experts in neutral positions (in customs valuation, law, corporate accounting, international tax, etc.) can give their review opinions on valuation methods to the customs for reference. In this case, the customs can charge the applicant part of the expenses.	The applicant is required to provide the Customs with additional information necessary for issuing a ruling on request. The period of time between the request from the Customs for additional information and the receipt of such information by the Customs is not counted.
13	Maximum term for advance ruling issuance	90 days after the presentation of application and information / *60 days after the presentation of the review report mentioned in item 12.	The time period specified for issuing rulings is within 90 days. The period of time between the request from the Customs for additional information and the receipt of such information by the Customs is not counted. - When the Customs expects that it cannot issue a ruling within 90 day-period, it informs the applicant of the delay, the status of consideration, the expected day of issuance, etc.	It is issued in 30 days. For complex issues, Customs may require more than the 30 day time period to finalize the ruling. The certificate is delivered as well to the head of the clearance custom.	Ordinary imports (unrelated parties) within 1 month after the application. Imports between related parties: within 1 year after the application due to the complexity in the examination process.	Ninety (90) days when customs request additional information, the deadline is suspended for those days only. - When the Customs expects that it cannot issue a ruling within 90 day-period, it informs the importer.
14	Since when is the time period for ruling issuance counted?	Since the presentation of application or since the receipt of requested documentation by administration	Since the date of receipt the application			

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
15	Advance Ruling Validity	Up to 3 years after its issuance.	No expiration date.	Up to 5 years after its issuance.	Declaration should be made within 3 years from the day when the results under Article 37(2) of the Act are notified.	Up to 3 years after its issuance (specified on the ruling).
16	Ruling confirmation by importer	Requested by administration and importer is provided a 30-day term to confirm is information stays unchanged. If importer does not confirm, Ruling validity is suspended.				
17	Ruling renovation	It is requested within the last three months before ruling expiration date. It is only renewed once.	There is no renovation because rulings never expired.	It doesn't exist renovation. After 5 years the Valuation Advice is automatically cancelled and if an advice is still required a new application must be made.		There are no procedures for renewing the ruling. When the ruling expires, the holder of the ruling has to provide the Customs with a new application if he/she would like to maintain the ruling.
18	Renewed ruling validity	Two years from expiration date of original ruling. Once this term has expired, there is no renovation and a new ruling must be requested.				

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
19	Modification and revocation of rulings.	A customs ruling may be amended, modified or revoked by the Director General if –(a) it contains an error which needs to be corrected;(b) the customs ruling was based on an error of fact or law;(c) there is a change in law relating to customs; or(d) there is a change in the material fact or circumstances on which the ruling was based.The amended, modification or revocation of the ruling shall take effect from the date specified in the notice that communicate such results.	Customs may modify or revoke rulings that are found to be in error or no longer in accordance with the official position. Generally modifications and revocations must be published in the Customs Bulletin in accordance with 19 USC 1625 for public comment prior to final action. The effective date of a modification or revocation is delayed for 60 days to give the trade time to adapt to the new ruling. However, an importer whose ruling has been modified or revoked may request application of the new ruling on or after the date of publication of the new ruling in final form in the Customs Bulletin.	The advance ruling system used in Australia incorporates flexibility for Customs to modify or revoke rulings under certain clearly defined circumstances. Clients upon a request in writing can apply for a modification or revocation of a ruling. The request must supply the reasons for the proposed change. Customs may revoke or amend a ruling when an amendment to the legislation has relevance to the ruling; incorrect information was provided or where relevant information was withheld; and Customs changes its views due to new information.	The Head of the CVCI can cancel the ACVA results in the following cases: When complementary material is not presented for an important missing part of the annual report despite the request from the customs When an important part of the annual report is false When there is a change in an important part of a precondition or supposition of the approved valuation method When the applicant doesn't declare the custom value in accordance with the approved valuation method or its requirements When the approved valuation method becomes inappropriate as a result of a change in relevant laws or international agreements .	Customs may amend or revoke the issued valuation advance ruling where, for example, the official interpretation of valuation laws and regulations has been changed, and the facts or circumstances supporting the ruling have changed.

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
20	Request for Issued Ruling Revision (Appeal or revision).	Any person dissatisfied with the decisions of the Director General of Customs can appealed it. The appeal must be filed within 30 days from the date of notification of the decision. An appellant must pay all duties and taxes as determined by the Director General of Customs before the appeal is heard.	Advance Rulings in Valuation may be appealed to an exclusive jurisdiction court for international trade cases only. From there it can be revised by two additional legal instances.	The request is addressed to a valuation team in the Canberra Central Office to ensure that the review process is independent. An application for a review of a ruling must be in writing, and should fully address the reasons why the decision is disputed. There is no timeframe for the lodgement of an internal review. Customs will provide the decision on an internal review within 30 working days.	Is possible to submit a review or an appeal, but there has not been a case yet.	Where the holder of the ruling is not satisfied with the ruling issued by the Customs, he/she is allowed to make a request for review within 2 months after the issuance of the ruling. Such request is to be made in writing and submitted to the regional Customs headquarters that issued the ruling in question. The request, with opinions of the valuation specialist at that Customs, is forwarded to and reconsidered by the National Valuation Centre. The National Valuation Centre, after consultation with the valuation section of the Customs and Tariff Bureau, Ministry of Finance, as appropriate, informs the Customs of its conclusion on the request for review, of which the Customs then notifies the applicant. The applicant is to receive a response from the Customs within 30 days after the request for review.
21	Request for a new Issued Ruling Revision.			Where an applicant for an advance ruling is dissatisfied, the applicant is able to appeal the matter to an Administrative Appeals Tribunal (external revision). The time period are governed by the rules set by these body.		

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
22	Ruling content.	Schedule B Customs (Customs Ruling) Regulations 2007 contains: - Serial No.; - Name of applicant; - Address; - Decision : "After taking into consideration the facts and information submitted, the customs ruling is decided as follows:..." - The validity period of customs ruling; - Signature Director General of Customs; - Date of issuance.	It usually contains a fact list of the transaction: the case, the applicable regulation, analytical presentation applying regulations to facts and finally our rendered advice.	The advance ruling when issued will contain adequate information required to answer the question that was raised in the request for the ruling. The decision will mention applicable legislation, legal notes, explanatory notes and other relevant reference material e.g. precedents, dictionaries, industry opinions etc. To ensure a nationally consistent approach in terms of recording structured information, analysis, Australia ensures that specific subject titles be used under the 'reasons for advice' field when the decision is recorded on the national register. Subject titles should always be recorded in the same order: - Detailed description of claimed issue - Customs identification of issue - Elements considered and reasons why - Elements rejected and reasons why (mention applicable legal notes, explanatory notes and other relevant reference material e.g. precedents, dictionaries, industry opinions etc.) .		Valuation advance rulings contain the summary of the transaction and the request as well as the view of the Customs on the valuation issue in question and its reasons.
23	Ruling use by applicant		The importer should accompany a copy of ruling to his/her importation documents	Rulings is honoured nationally. When entering goods the client quotes the ruling number on their entry. If the entry is questioned, the client only has to show that the facts of the importation are the same as those used to issue the ruling. A client who has been issued an advance ruling in connection with a good that is being imported must abide by the ruling when completing the customs clearance for the good. Failure to do so may result in a rejection of the entry and the imposition of penalties if appropriate.	1. applicant under Article 37(1) of the Act should be identical to the taxpayer 2. documents submitted under Paragraph 1 should be truthful and consistent with value declaration 3. there should be no change in the laws or transaction relations based on which advance ruling is conducted 4. Declaration should be made within 3 years from the day when the results under Article 37(2) of the Act are notified	A copy of Rulings with supporting document is presented by the importer at the clearance. Customs comply with valuation treatment established in Rulings provided such Rulings are for transaction for which they have been issued. When a duty declaration is made in accordance with the accompanied valuation advance ruling, the Customs honours the valuation treatment set out in the valid ruling as far as the declaration is made for the transaction on which the ruling was issued.

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
24	Ruling Application by Customs.		<p>Customs issues an advance ruling on the assumption that the information provided is accurate and complete. Customs may verify the facts of an actual transaction upon importation to ensure they are the same as those described in the ruling letter. Ruling could be applied only with respect to transactions involving articles identical to the samples submitted with the ruling request or to the articles whose description is identical to the description set forth in the letter. A principle in a ruling may be cited as authority in the disposition of transactions involving the same circumstances.</p>		<p>The head of the customs of clearance determines the customs value of imports according to the legally issued certificate of Valuation Advance Ruling</p>	<p>Valuation Advance Rulings provide applicants with the view of the Customs on the interpretation and the application of laws and regulations concerning customs valuation, and inform them of valuation treatments to be applied to the transaction in question. The Customs Law stipulates that Customs shall endeavor to make an appropriate response to an enquiry made by an applicant (e.g., an importer, his/her agent, etc.) regarding the information necessary for duty declarations of the goods to be imported, such as tariff classification and customs valuation.</p>
25	Ruling Publication	<p>RMC produce a booklet for the public, this booklet is intended to provide information and guidelines to members of the public regarding the customs ruling.</p>	<p>Rulings are published on the CBP web site. For general information purposes, this body of rulings can provide useful insight into the application of Customs and related laws. They are published by an online search system containing rulings issued since 1989 until the present.</p>	<p>Due to the confidential nature of information supplied to obtain a valuation advance ruling (i.e., contracts and agreements) Australia makes the advance ruling available to only the client (or their agent) who requested the ruling. If a number of similar rulings are issued and it is considered that the rulings are being issued due to confusion as the application of a part of the legislation then Australia will issue an public ruling via a Customs Notice to all clients. This ruling will be general in nature and contain no confidential information.</p>		<p>Valuation advance rulings are made publicly available on the Customs homepage after deleting business confidential information and references to specific parties of the transaction. Valuation advance rulings posted on the Customs homepage are accessible free of charge.</p>

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
26	Information Confidentiality	Confidentiality of information- Section 125A(1) Customs Act 1967- Any information relating to valuation is confidentiality and any proper officer of customs or any person who in the ordinary course of his duties comes into possession of or has control of or access to such information shall not-- Communicate such information; or- Suffer or permit any person to have access to such information.	Yes, confidential data are excluded at request by requestor under confidential information standards (i.e. trade secrets, financial information). The requestor may request not to disclose trade proprietary business information. Disclosure exempts must be held according to U.S. legislation. A Ruling will not be issued when lacking of confidential information makes it useless for trade business.	The ruling is only noticed to the applicant.	Documents submitted by a company for ACVA application can't be provided or disclosed to others for other than the original purpose. Experts participating in the ACVA process are not allowed to provide related information to other than the applicant, his agent and the Head of the CVCI If not conducting ACVA, the Head of the CVCI should return all the submitted documents to the applicant.	Confidential information and specific references to the transaction parties are erased before its publication. Confidential information is treated as such, in accordance with Article 10 of the WTO Customs Valuation Agreement. Article 100 of the National Public Service Act provides as follows: "An official shall not divulge any secret which may have come to his/her knowledge in the course of his/her duties. This shall also be applied after he/she has left his/her position." Valuation advance rulings are made publicly available after deleting business confidential information and references to specific parties of the transaction. In Japan, information held by government agencies is to be disclosed upon request under the Act on Access to Information Held by Administrative Organs. However, information provided by the private sector on the condition of non-disclosure is exempted from such disclosure.

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
27	Cases in which an Advance Ruling in Valuation is not issued	If the information provided is insufficient. Misinformation must render an AR void. The ruling should not be issued if a request is hypothetical in nature.	When requestor does not have attachment or interest in transaction or when request does not have enough information.	The provision of an advance ruling should be based on information supplied by the client. It is the obligation of the client to provide complete and accurate information. The ruling should be based on factual information, not information that is hypothetical in nature. If the information provided is insufficient, Customs should not issue an advance ruling. Customs may cancel or amend a Valuation ruling where particular circumstances warrant. Such circumstances include: (1) where an amendment is made to the legislation which has relevance to the advice; (2) where incorrect information was provided to Customs or relevant information was withheld from Customs; and (3) where Customs changes its view (this may occur as a result of legal precedent).	If there is any change in the transaction, etc. before the completion of ACVA, the applicant can revise or withdraw the application.	A valuation advance ruling cannot be issued where, for example, the transaction in question is fictitious or illegal, or the request has been made with a view to obtaining information on how to alter or structure transactions to avoid or to minimize the payment of duty. A valuation advance ruling is not basically issued where a duty declaration of the goods in question has been made. However, if the goods are still to be imported thereafter, a valuation advance ruling is to be issued for such goods.
28	Position of person signing an Advance Ruling in Valuation	The Director General of Customs Malaysia.	The chief of the valuation and special programs branch, Office of Regulations and Rulings.	Valuation advance rulings are issued and signed off by a Customs supervisor after checking by a Customs Manager.		The ruling is issued by the regional headquarters.

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
29	<p>Nature of Customs Decision in Rulings. Is Customs value determined? Is valuation method determined?</p>	<p>Transaction value as primary basis of valuation; Adjustment of price paid or payable; Secondary method of the valuation; Post-importation technical assistance, freight and administration costs; Other issue.</p>	<p>Customs specific value is never determined but the method to be used and any necessary adjustment calculation (add or deduct) are under valuation standards.</p>	<p>The valuation advance ruling service exists to advise importers on specific issues relating to the assessment of their customs value. It does not extend to Customs advising the exact amount of the customs value. Valuation rulings provide advice to a client on specific issues relating to the principles of customs valuation that must be used when making the assessment of the customs value of imported good. A valuation ruling is usually issued in relation to methodological issues of customs valuation as well as details of whether certain costs should be included or excluded (e.g., packing costs, foreign inland freight and insurance, commission, and royalties) from the valuation calculation. They only cover the principles to be used when determining the customs value. For example, if a ruling is required for a royalty then the ruling will advise if the royalty is to be included in the customs value; it will not advise the amount of the customs value.</p>	<p>1991-2007: only handling factors to be added or deducted from the value actually paid or payable, requirement for acceptance of transaction value regardless of relations between traders</p> <p>2008- : separate advance ruling on transactions between related parties Application for valuation advance ruling is confined to following matters due to the limit in administrative capacity of the customs</p> <p>Scope of Valuation Advance Ruling</p> <ul style="list-style-type: none"> - Confirmation of the actually paid amount and the amount to be added/deducted - Confirmation of transaction value requirements (conditions or circumstances, restrictions on disposal or use, post-import proceeds, influence of special relations between traders) - Confirmation of customs valuation methods of transactions between related parties <p>Commissioner should notify the results to the applicant.</p> <p>The Customs accepts customs value of imports declared by a taxpayer based on the notified results.</p> <p>Provisions of Article 1 and 8 of the WTO Customs Valuation Agreement. For related parties: Process in which the customs determines, on application of a taxpayer, the customs valuation method for imports traded between related parties such as an overseas parent company and its domestic subsidiary prior to import declaration through pre-examination, and exempt from or postpone a post audit for 3 years</p>	<p>Valuation Advance Rulings provide applicants with the view of the Customs on the interpretation and the application of laws and regulations concerning customs valuation, and inform them of valuation treatments to be applied to the transaction in question.</p>

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN															
30	Implementation process					It lasted a year.															
31	Public Relations related to introduction of Valuation Advance Ruling system					The administrative guidelines introducing the procedures for written valuation advance rulings were publicly released before the implementation. The guidelines have been issued by the Director-General of the Customs and Tariff Bureau, Ministry of Finance, and have been posted on the Customs homepage. A leaflet on such procedures was developed, which was handed to importers who visited Customs offices and was utilized during the explanation of the procedures at the meetings with trade communities.															
32	Binding feature to other transactions through the importer and other importers	The ruling should be applied to importation without regard to the identity importer, exporter or producer, provided the facts relating to the imported good are identical in all aspects (public ruling).				The valuation advance ruling is honoured by the Customs with respect to the very transaction by the holder of the ruling. The valuation advance ruling is not binding on the Customs with respect to other transactions by the same importer and other importers. The Customs, however, deals with all import transactions equally, where the facts and circumstances are identical in all material respects.															
33	Experiences in issuance of Valuation Advance Rulings	Applied since 05/04/2007	So far only 7 rulings have been issued this year, an average of 60 a year; and 1152 since the program started in 1988.	<table border="1"> <thead> <tr> <th data-bbox="884 1122 961 1182">Year</th> <th data-bbox="961 1122 1104 1182">Number of Advices issued</th> <th data-bbox="1104 1122 1247 1182">Number of Advices reviewed</th> </tr> </thead> <tbody> <tr> <td data-bbox="884 1182 961 1219">06/07</td> <td data-bbox="961 1182 1104 1219">74</td> <td data-bbox="1104 1182 1247 1219">1</td> </tr> <tr> <td data-bbox="884 1219 961 1256">05/06</td> <td data-bbox="961 1219 1104 1256">93</td> <td data-bbox="1104 1219 1247 1256">1</td> </tr> <tr> <td data-bbox="884 1256 961 1294">04/05</td> <td data-bbox="961 1256 1104 1294">94</td> <td data-bbox="1104 1256 1247 1294">2</td> </tr> <tr> <td data-bbox="884 1294 961 1323">03/04</td> <td data-bbox="961 1294 1104 1323">99</td> <td data-bbox="1104 1294 1247 1323">4</td> </tr> </tbody> </table>	Year	Number of Advices issued	Number of Advices reviewed	06/07	74	1	05/06	93	1	04/05	94	2	03/04	99	4		Issued four rulings in the first quarter of this year and six rulings in total since the introduction in July 2005.
Year	Number of Advices issued	Number of Advices reviewed																			
06/07	74	1																			
05/06	93	1																			
04/05	94	2																			
03/04	99	4																			

No.	ISSUE	MALAYSIA	UNITED STATES	AUSTRALIA	KOREA	JAPAN
34	Request for Ruling's certificated copy	Previous payment of 50 Ringgit (US \$ 16 aprox) is requested.				
35	Benefit	<p>Before Importation, assist traders in preparing their business plan from the aspect of costs and feasibility study; avoid any situation of uncertainty with regard to the amount of duties to be paid; for consistency of action at any entry points in Malaysia where the goods are to be brought in and in the line with international practice with emphasize on simplification and harmonization of the customs procedure.</p> <p>After importation complement to task auditing the account of the company or the investigation function of the proper officer of customs for determining where the correct amount of duties have been paid and for the purpose of declining conflicting issues of classification or valuation on the goods at the time of import.</p>	Has increased certainty for traders by providing improved information concerning the trade community's rights and obligations. It also facilitates trade by lessening the time Customs needs to make decisions at the border.	The ruling provides the client with predictable information in advance in order to facilitate compliance with Customs requirements. Provide commercial certainty to importers regarding customs and tax liability. The ruling is provided so that it can be used repeatedly; it is not limited to a specific importation. Advance rulings provide consistency of decision making and speed up customs clearance of goods and Customs does not have to spend time at the border at the time of importation, therefore spending more time effectively examining other facts of the importation. The result is cost saving to the client and to Customs.	<p>Taxpayer : reducing burden and friction with tax authorities caused by post audit and taxation. Customs : securing stable tax revenue and easing burden of post audit. Reducing chance of post audit on transfer price</p> <p>Easing burden of additional tax and penalty caused by omission of customs value</p> <p>Saving administrative resources and securing stable tax revenue</p>	<p>Trade facilitation: Valuation advance rulings provide the holders of such rulings with predictability regarding the valuation treatment of the goods to be imported and enable them to do cost accounting of such goods accurately. Accordingly, international trade of goods is facilitated.</p> <p>Expedite of clearance process: The valuation advance ruling is honoured by the Customs with respect to the very transaction by the holder of the ruling. Accordingly, valuation advance rulings can reduce the time for examination of duty declaration of the imported goods, which facilitates clearance of the goods.</p> <p>Cost and time reduction: Since the holders of the rulings know how their importing goods are to be treated by the Customs in respect of customs valuation before importation, they can set appropriate resale prices of those goods in order to recover the costs and make a profit. They can also reduce the risk of incurring additional amounts of duties, after the imported goods were resold, as a result of post-clearance audit.</p>

COMPARATIVE MATRIX OF TOPICS DISCUSSED IN THE WORKING GROUPS

LOGISTIC ASPECTS FOR THE IMPLEMENTATION

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
REQUESTED PERSONNEL	The number of officials involved and the functions are relative and It depends of the organizational structure of every national customs. If the core business belongs to the customs, the custom should lead the ruling process.	Personnel should have the qualification to understand the WTO valuation agreement. For each application, a team of 5 officers should be constituted to examine the process and validation.	6 officers are appropriate, but it can be increased according to the increase of the demands for the VAR.	The number of personnel depends on the number of requests received and their complexity.	It depends on the knowledge of the personnel and the complexity of the cases that are dealt with. It is important to look at the precedent. During the first years it is necessary to be flexible in the organization of the department and the number of people that will deal with the rulings. The decision for the number of people is requested for the job depends on the quantity of application issued on a timeframe.
PERSONNEL FUNCTIONS	Answered in Requested personnel.	1 received application, 1 or 2 check requirements, analyze the application, issue a draft, issue the ruling and sign.	They have to be specialist in the area of valuation, PCA, corporate accounting and TP taxation.	The personnel should focus on advanced ruling issues. However, economies may modify, as needed depending on requests received.	The most important is to issue a ruling. Also to analyze the circumstances of the importation, in order to check where it fit in the legislation.
COMPUTER SYSTEM	Yes, it is necessary to connect VAR to CS to ease issuance process.	Are not necessary at the implementation stage, but should be useful depending on the number of applications. Also, standardization of templates should be necessary to be implemented.	Computer system is preferred but paper issuance can be used until the establishment of the computer system.	There are minimum computer system requirements for drafting rulings, legal research and publication, i.e., word processing, internet access and a web-based publication application,	It is not essential for the enacted of the ruling. Computer system is a useful tool when you need to review ruling database and the importations database. It is more important when the Customs have a decentralize organization for consistency.

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
ORGANIZATIONAL STRUCTURE	It depends on location.	It is based on the personnel functions.	Dedicated one team is needed and should be coordinated by the valuation of the HQ.	It would be better to have a valuation technical branch with some legal expertise.	It depend on the economy Customs Organization where must be located, it could be in a commercial department, valuation department, legal department, but the most important is that the department will be in contact with the clients.
LOCATION (CENTRALIZED OR DECENTRALIZED)	Application could be submitted regionally and the requirements are checked at the HQ. Analysis processing and issuance must be centralized in order to ensure standard of reports.	Affordability of the system and trade framework designs this possibility. It will depend on the size of an economy. For a small economy, centralization is an option. But a big one that is decentralized is recommended to have a significant number of technical personnel with expertise.	Centralized system is preferred because consistent application of the valuation legislation in the field needed.	Centralized.	The locations depend on the number of rulings each decentralized area will deal. It is important that the department must deal with a minimum number of cases in order to gain expertise.
PUBLIC RELATIONS CONCERNING THE INTRODUCTION OF A VALUATION ADVANCE RULING SYSTEM	It is advisable that the procedure be published at web sites also.	It is necessary before the beginning of the system, to receive suggestions and comments from stakeholders of foreign trade. Public awareness is a next stage when the system begins in order to inform society.	Pubic Relations is very important for the success of the introduction of the VAR. We need to use all the channels including media to let all the traders well known of the VAR. all the trade operators how to use the new system.	Training of trade community is vital so that they know that advance rulings are available and how importers can take advantage of this tool.	It is important to show the benefits of the system to the clients before the implementation of the system. The publicity can be made by booklets, publishing on the Customs Webpage or through seminars and workshops.

FRAMEWORK OF STANDARDS AND LEGAL ASPECTS OF VALUATION ADVANCE RULINGS

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
SCOPE OF VALUATION ADVANCE RULINGS REGARDING TO ITS ISSUANCE	It states the principles to be adopted to determining the Value of goods at Customs.	Determine the method follows the valuation treatment. Interpretation of valuation laws and regulation.	Every matters regarding customs valuation can be handled by VAR. But for the effective operation of the VAR limitation on the scope can be considered.	Binding to both customs and the applicants.	The most important is to decide if the issue fit a specific valuation issue and how many issues your system will allow the post.
BINDING ASPECT TO OTHER TRANSACTIONS BY THE SAME IMPORTER AND OTHER IMPORTERS	There are two types of VAR to be issued. If the VAR is applicable to all, it is a public ruling, but if the VAR is specific, it is binding to the person who asked for it.	Valuation ruling is binding for the transaction which is support. Customs should treat other transactions in similar conditions as the ruling one.	Binding only on the same transaction and importer, but customs can employ the principles applied the VAR issued.	Binding to the same importer. However other may receive the same treatment but it's not necessarily binding on them.	It is essential, and must be binding to any client to fit in the circumstances of the transaction,
INFORMATION CONFIDENTIALITY	There must be confidential information but as a consequence of an agreement between Customs and the applicant.	All the data submitted by the applicant should be treated as confidential.	VAR should be published, but only the decision, but not the details containing confidential information case.	Protect confidentiality of business information and trade secrets in compliance with article 10 of the valuation agreement.	It is important to examine our own laws, and also coordinate with the client the confidential information.
APPEAL AND / OR REVIEW PROCEEDINGS	There shall be a national legal framework allowing an appeal process, and also a system for a review process that shall be developed.	The process must have a review and appeal proceeding.	As long as use of the Advance Ruling Issuance is not mandatory, there is no need to have official appeal procedure. But review process is needed.	We should have both process and access to judicial review.	Very essential, the client has the right to have an independent review of the ruling. It is important to decide if the review is internal or external or both.

OPERATIVE PROCESS IN THE VALUATION ADVANCE RULINGS ISSUANCE

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
REQUIREMENTS TO BE ACCOMPLISHED BY IMPORTERS	It is important that the applicant submits all the necessary and complete information, as Customs authority requires solving the case, under reasonable limits.	The importer or an agent could submit the application to the customs. Documentation can be downloaded or directly request to customs.	Anyone who has a relation with the very transaction, can apply for the VAR.	We encourage economies to set specific requirements for submission of ruling requests. The requirements could be set in a form or by regulation.	The importers have to submit the application with all the important information related with the transaction.
APPLICATION REQUIREMENT	A Valuation Advance Ruling is issued for real trading operations only, it cannot be issued for hypothetical transactions, which never are going to be executed. However, It is important to clearly define exemptions in the regulation.	Applicants must provide the complete application form and all the necessary information to the customs.	The importer should submit the application form before filing value declaration.	We encourage economies to set specific requirements for submission of the ruling request. The requirements could be set in a form or by regulation.	Name and identification of the applicant, name of the seller, all the facts relating to the transaction, the issue they want apply and the reason why are applying.
MEANS BY WHICH AN APPLICATION IS CARRIED OUT	An Application can be submitted Manually or Electronically, or both.	Application should be submitted in a written way or electronically (to this happen it is necessary to be presented in also the physical document).	Internet system is best but paper system can be accepted for the time being.	We would encourage electronic submission of ruling request. However, we recognize the technical challenges related to requiring electronic transmission of supporting documents such as contracts, invoices, prove of payment and other relevant documents.	How to apply it is not important, but the information it is attached to the application.

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
REQUIRED SUPPORTING DOCUMENTS	It is important that the applicant submits all the necessary and complete information, as Custom authority requires solving the case, under reasonable limits.	The sales contract, agent agreement, license agreement, invoice (if exists), payment documents, confirmation order, transportation document (if its available)	All the materials and documents needed to prove the facts of the transaction.	Contracts, invoices, proof of payment, technical information of the goods.	All the documents relevant in the transaction.
COMPLEMENTARY INFORMATION REQUIREMENT	Legislation has to consider asking more information to the applicant, if it is necessary in a defined term.	Any document related to the goods that could be useful in the analysis done by customs.		Any other relevant information.	All the information related to the transaction.
TERM BETWEEN THE APPLICATION PRESENTATION AND THE RULINGS ISSUANCE	Within 90 days could be advisable as an average.	The time period specified for issuing rulings is within 90 days, but when the customs expects that it cannot issue a ruling within 90-day period, it informs the applicant of the delay and the expected days of issuance.	30 days, if the customs needs additional information it can takes more time.	Issuance 90 days of application. For complex issues, customs may require an additional term to issue the ruling.	Balance between Customs need to get a correct interpretation of the valuation regulations and the need of the client to have a ruling. In the first years we need to be very flexible in order to adjust the time period.
RULINGS CONTENT	It contents the summary of the principles to be adopted to determining the Value of goods at Customs.	Facts, issue, analysis and the law that is need to be applied to the case and finally the conclusion.	Summary of the transaction / view of the applicant / reasons and decision of the customs / applying regulation.	A summary of the facts, definition of the issue, legal basis, analysis and conclusion.	The decision and reasons why based on the legislation.
PAYMENT FOR SERVICES	It is acceptable to require a fee in order to reach efficiency, and cover the administrative cost of the service.	In order to reduce the costs for traders, it should not exist a fee for issuing the ruling; but if the economy decided to charge a fee, must be in accordance with WTO agreement.	Basically free service is best for the traders but need to charge for the special service rendered to the specific one.	Minimum cost recovery, compliant with GATT requirements.	Each country must to decide it applies a fee or not, can be decided in a cost recovery basis.
USE AND APPLICATION OF VALUATION ADVANCE RULINGS	As a VAR is a binding ruling for Custom, It shall be mandatory for the importer to use a VAR.	During and post-clearance audit, valuation ruling could be use.	VAR can be a reference to the trade operators and the customs officers.	Binding to the same importer. However other may receive the same treatment but it's not binding on others customs. Duration of 5 years.	Depends on the how the entry system function, if the system can get the information within it or it is needed to be attached in the Declaration.

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
VALUATION ADVANCE RULINGS DEADLINE	It depends on the national legislation, but 3 years is a reasonable term.	3 years of validity	Three years of period of validity.	Suggested 90 days.	Balance between the need of the Customs Office not to review the issues every time and the need to re-examine the issues after a time in order to check. In the beginning is important to be flexible in order to get the right balance.
VALUATION ADVANCE RULINGS RENEWAL	Renewal is a reasonable alternative to be considered only once, but If it is allowed, 2 years is an appropriate term.	The importer or the agent could have the possibility to require a renewal of the ruling.	It can be renewed for the same period of time.	We don't recommend a renewal mechanism, however, we encourage applicants to seek a new ruling once the old one expires,	If the facts of the transaction are the same and the legislation as well, why not renew.
VALUATION ADVANCE RULINGS AMENDMENT AND REVOCATION	It is important considering to amend and revoke alternatives, as long as the conditions to issue a VAR could change showing misstatement or omission of material facts, and written law.	The valuation ruling will be amended, revoke or cancelled by the customs administration when exist a change of the facts that support the ruling or found a new facts about the transaction.	It can be revoked in case document submitted is false or regulation concerned changed.	Pursuant to international law, we recommend adoption of amendment and revocation procedures.	It is important to have a proceeding for amendment and revocation because the facts of the transaction can change.
CASES IN WHICH THE VALUATION ADVANCE RULINGS CAN BE ISSUED	If all the requirements for VAR set out in the administrative guidelines are met, the authority can issue the ruling.	During and post-clearance audit, valuation ruling could be use.	Can be issued for all topics relating to valuation.	For prospective transaction in which the application contain all the relevant facts and documentation need to issue the ruling.	Every case was you have the proper information in order to issue a ruling. We can begin with few cases and then increase the issues on time.
PUBLICATION OF THE VALUATION ADVANCE RULINGS	It is advisable to publish the issued VARs at the Customs website provided that confidential information has been omitted or removed, in order to inform the public about Custom decisions.	The valuation ruling should be published but without the confidential information.		We encourage publication omitting the information that would identify the requester or the applicant.	Internal publication: It must be published within the organization and available for everyone. External publication: Depends on the confidentiality legal limits.

VALUATION ADVANCE RULINGS IMPORTANCE AND BENEFITS AND BEST PRACTICES IDENTIFICATION

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
TRADE FACILITATION	In order to promote the transparency and predictability of trade operations, minimize customs costs.	Should provide predictability to stakeholders about valuation treatment.	All of those are the advantages of VAR system so every country needs to introduce the VAR for employing such advantages.	Trade is facilitated due to the transparency and simplification of entry procedures.	It is important when an import is good but have a complex situation on valuation, AR is a good tool to facilitate the entry of the goods. The result is a cost save for the client.
EXPEDITE OF CLEARANCE PROCESS	Reducing the clearance time for imported goods.	Valuation advance rulings can reduce the time for examination of duty declaration of imported goods.		Importers attached the ruling to the entry documents allowing for immediate release.	It facilitates the clearance when cases are complex.
COST AND TIME REDUCTION	Yes	Since the holders of the rulings know how their importing goods are to be treated by the Customs in respect of customs valuation before importation, they can set the appropriate resale prices of those goods in order to recover the cost and make profit.		It reduces cost for both importers and the customs administration because there are fewer delays during the clearance process.	There is saving for both parts for Customs and clients.
LEGAL SECURITY OF USER	Yes	Valuation advance rulings are honoured by the Customs with respect to the very transaction by the holder of the ruling. Consistency in the application of valuation rules can also be promoted.		Rulings are binding to both the importer and customs resulting in no surprises to either party.	It is the big benefit for the client, because the game rules will not change time. And for Customs, it will not be necessary to review the case in the clearance process.

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
DECISIONS IN A STABLE ENVIRONMENT	Yes	If the customs amend or revoke valuation ruling, the new valuation ruling will be applied after a period of time. So this gives stability to stakeholders.		Provides certainty to importers as to the treatment they would be afforded upon entry.	Since the facts are the same, the rule must be kept.
HIGHER LEVEL OF USER SATISFACTION	Yes	Issuing the ruling as expeditious as possible, and no later than the time frame.		Advance rulings increase interaction between customs and importers, thus helps open communication channels and satisfaction.	It is an indicator that the system is working fairly.

Part VI.

Questionnaire Survey Results

Questionnaire Survey Results

Project Code : CTI 11/2008T

Project Title: Workshop on Application of Valuation Criteria in Advance Rulings in APEC Member Economies

Workshop: Application of Valuation Criteria in Advance Rulings in APEC Member Economies

Place: May 23-24, 2008, Arequipa, Peru

Part A for Trainees

The participants' answers to each question are detailed as follows:

Question (a): How have you or your economy benefited from the project?

- We could learn the experiences of many economies on this issue.
- Yes, it is possible to compare with other economies' Valuation Advance Ruling system
- Knowing how advance ruling regulated in others
- Yes, Chinese Taipei has gotten benefit from the project
- I have a more clear realization on Advance Ruling
- Will have different samples to implement it
- Very much
- Mainly to learn experience from economic APEC
- My economy will be ready for set a valuation advance ruling system
- We received a lot of experiences of application of valuation advance ruling
- Experience sharing will be very useful for our implementation on this matter
- It is important to apply in legislation
- Creating stability, the clients will have confidence and customs will have good risk management to avoid lost time
- On the possible implementation of the mechanism for appraisal advance
- We have collected a lot of information in order to design valuation advance ruling
- The advance rulings reduce time the process
- Advance ruling gives benefit to Peruvian economy
- We have benefited because we have learned about this project through foreign experience
- Knowing experiences and suggestions for better implementation of this process
- Obtaining knowledge and experience from lecturers
- We have received many information of the process in other economies. We have taken note and we are going to use it in the implementation of the system in our economy
- New and better knowledge for their effective application

Question (b): What new skills, knowledge or value have you gained?

- Sharing of experience
- Procedure, purpose, system of advance rulings

- Know how treatment of related parties in valuation advance ruling
- I have gained the logistics aspects. Framework of standards and legal aspects and operative process
- Know how to study the advance rulings in China
- How to prepare procedures on this topic
- Trade facilitation, rules and regulations concerning the advance ruling system
- Knowledge, technology for introducing valuation advance ruling in Vietnam
- The different experiences of other economies in the valuation advance ruling system
- We gained about the knowledge of procedure that economies applied for this mechanism
- Knowledge about concepts and applications in advance ruling
- The customs procedures about advance rulings
- The experience of other economies, elements that we can apply to implement valuation advance ruling system
- Experiences in other economies of the valuation advance ruling system
- We gained the knowledge about how to design regulations about Advance Ruling
- Experience from other economies about advance rulings
- I have gained experience about valuation advance ruling procedure
- Know the process in different economies such Malaysia, United States, Australia, Korea and Japan
- We have known about logistic aspects, legal aspects, operative process and benefits from other economies

Question (c): What, if any, changes do you plan to pursue in your home economy as a result of the project?

- To evaluate the probability of implement this ruling system
- There might be able to be tabled more examples to enhance mutual understanding
- Propose to revise our regulation about valuation ruling
- Chinese Taipei will collect more implementation cases. In the future maybe we will evaluate the possibilities whether we can pursue such an advance rulings
- Introduce and study the conditions
- The time of validity
- We plan to pursue the advance ruling to be implemented as soon as the law passed the parliament
- Viet Nam will implement valuation advance ruling in 2 years
- The project gives us some information in order to improve the design of the valuation advance ruling system
- Our economy will be applying the valuation advance ruling on February 2010. The experience gained in the workshop will help us
- To facilitate issues or trade advance ruling as number of cases
- Yes, start a project to apply advance rulings in Peru
- The need to make a deep investigation and we can implement it
- Change national legislation to implement the project results
- We will begin to draft the rules about advance rulings with the information collected
- I will develop a system plan for valuation advance ruling implementation
- Support in the implementation process of valuation advance ruling
- The target finally is to make our own legislation on valuation advance rulings
- We are going to collect the best practices based in all information and experiences from the economies to implement the system in Peru

Question (d): What needs to be done next? How should the project be built upon?

- We hope the workshop could bring the real cases to the economies in the future
- Set up a universal regulation in advance ruling for APEC economies, including the enactment process
- We hope the workshop could bring the real cases that have implemented

- Study cases about advance rulings
- We will build the implementation plan
- Introducing valuation advance ruling in Viet Nam
- Implementing the process, visiting economies' customs administration in order to know carefully the process in each one of them
- I think is necessary developing a complementary workshop like implementation of valuation advance ruling
- Evaluate the process when implementing and see real results
- It is important to review cases and more experiences in other economies
- To make an internal agenda, to make all areas can bring its own experiences
- To train staff on experiences in other economies
- Maybe exchange of information and harmonization
- To implement the project in my economy
- Prepare report of best practices in logistics, regulatory and operations
- It is important to continue with the APEC assistantship for making the valuation advance ruling regulation
- The next step is to work in the implementation process in Peru
- Improve it with the experience of other economies whose have had experience on application of valuation advance ruling

Question (e): Is there any plan to link the project outcomes to subsequence collective actions by fora or individual actions by economies?

- Yes, we will use the outcome of this meeting as a source to regulate our regulations about advance ruling.
- I will try my best to development advance ruling in China
- To plan implementation valuation advance ruling for Viet Nam
- After we received the experiences of the workshop our economies should apply the mechanism of -I think is necessary develop a complementary workshop like a implementation of valuation advance ruling
- Incorporate a KPI, which measures effectiveness on this issue
- Coordinated work and constant communication
- Surely, there must be a plan to connect the project results in the future actions of our economy
- The project's outcomes would be used to design Peruvian advance ruling
- All economies should work the advance rulings to increase the international trade
- The outcomes of the project will benefit the APEC economies. We expect to comply the objectives of APEC Fora trough the facilitation of the international trade with reductions in cost and time in customs clearance

Question (f): Please use the same scale to rate the project or an overall basis

- (5) (good): 19 (79%)
- (4) : 5 (21%)
- (3) : 0
- (2) : 0
- (1) (poor) : 0

Question (g): What is your assessment of the overall effectiveness of the project?

- Very well organized
- Very good
- It is helpful and useful
- Good
- Very effective
- The project got a higher effectiveness
- Very effective and useful
- The project was interesting and effectiveness

- The project will be effective
- It was a good project but it lack to provide information of cases
- Knowledge and information shared, very useful for the purpose
- The workshop fulfilled his objectives and have allowed to the attendances to know about the process and experiences in economies that apply the system for many years
- My personal assessment is that it could be possible apply it, but it is important to take the experiences of other economies whose have had knowledge for their real application

Question (h): Was the project content : (check one):

- Just right (21)
- Too detailed (1)
- Not detailed enough (2)
- N/A (0)

Question (I): Please provide any additional comments. How to improve the project, if any?

- Bring the real cases of economies will help
- Advance rulings are not adopted in so many economies. We could have other presentations form economies those have not yet adopted, about their plan for the future
- Make this seminar continued in future
- To circulate the conclusions of this meeting to all the members and prepare for the next step action following the outcome of the meeting.
- To give more cases to those members economies that have not implemented advance rulings
- Longer is better
- Study cases including accounting experts
- Everything is OK but communication skill is needed
- For next workshop like this, I recommend that the speakers explain about the real cases or situations to permit us know how we have to issue the advance rulings
- Making a plan to implement the Valuation Advance Rulings in all economies
- The results of the project will materialize as soon as possible for the welfare of our economy
- We need more time for the next workshop
- The project could improve with the development of other workshop related to the implement process of valuation advance ruling
- All of our economies should apply it by technical assistance of APEC member economies applying it

Part B for Speakers

Number of respondents was 5 among 5 speakers

Question (a): Do you think the project achieved its objectives? What were the project results / achievements?

- Yes, best practice were showed effectively
- Make a presentation paper for experience of operation of Valuation Advance Rulings in Korea
- Yes very good
- I think the project successfully achieved its objectives, such as sharing of economies' speakers' experiences, which have an identification of best practices through discussions.

- Yes, to provide economies with information of Valuation Advance Rulings

Question (b): Were the attendees the most appropriate target group?

- Yes
- Yes, of course, most participants have better understanding and knowledge regarding Valuation Advance Rulings.
- Middle management level
- I think yes. The attendees have been responsible for customs valuation and most of them get involved in policy-making on Valuation Advance Rulings system.
- Yes

Question (c): What is your assessment of the overall effectiveness of the project?

- Very productive
- Basically, very effective, but communication skill is needed
- Overall effectiveness of the project is more than 90%
- I think the workshop will be effective for both economies which have introduced the Valuation Advance Ruling System and which have not yet as the first activity
- Very good

Question (d): Was there any room for improving the project? If so, how?

- The duration of the project should be around 3 to 4 days
- The activity should not be completed by only a one-time workshop

Question (e): Any other suggestions?

- Further activity (s) should be done to fully use the deliverables made through this workshop

Part VII.
Workshop Benefits

Workshop Benefits

The benefits obtained from the workshop have been significant for both member economies that are not applying the Valuation Advance Rulings yet and experienced member economies in their application. Member economies applying this system were able to compare their processes and procedures to those applied by other member economies. This will enable economies to improve their current processes or to implement new mechanisms in their processes. Likewise, economies such as Peru, who do not apply the system yet, were able to collect detailed and specific information on its application by experienced Member Economies. Best practices in the application of this process could be identified and will serve for implementing this system in an efficient manner.

Experts from Australia; Japan; Korea; Malaysia and United States who have experience in the application of Valuation Advance Rulings briefed that by implementing and applying this mechanism economies will obtain benefits such as:

- Time and cost reduction in clearance process, as the importer will know in advance the value of their goods before presenting a customs declaration.
- Trade facilitation and clearance process simplification, as users will have a greater certainty of the treatment of their transactions by Customs.
- Legal certainty and decisions by users in a secure environment.
- High level of satisfaction by user when presenting his/her import declaration in a safe and secure environment.

Likewise, with the information related to experiences in the application of Valuation Advance Rulings presented by experts and with the comparative matrix of processes which were prepared for supporting the development of the workshop, as well as the best practices identified by working groups, APEC Member Economies will be able to implement and apply in an effective way the Valuation Advance Rulings mechanism within a framework of standardized and uniform processes.

In that regard, the application of Customs valuation criteria in the framework of Advance Rulings represent a mechanism contributing to the cost reduction of a 5% in trade transaction costs in the region provided for in the second phase of the APEC Trade Facilitation Action Plan, by reducing time of goods clearance.

Part VIII.
Next Steps

Next Steps

A priority identified by participating APEC economies was the need to learn the implementation process followed by experienced economies in the application of Valuation Advance Rulings in order to identify the best practices focused in implementation process and the introduction of this mechanism.

Another priority identified by participants in the workshop was the need of collect information based on cases on the application of Valuation Criteria in Advance Rulings from those economies experienced in its application.

For those reasons, a new project called “Workshop on implementation of Valuation Advance Rulings in APEC Member Economies” has been submitted for approval as a continuation of this project. The new project will comprise a Workshop to exchange experiences among Customs delegates of APEC member Economies, collect information and identify best practices in the implementation of this mechanism. Furthermore, to provide information related to real cases of valuation criteria application that have been resolved by member economies with greater experience in Advance Valuation Ruling application.

By holding this second workshop, Member Economies would have a complete and detail framework on process of implementation and application of Valuation Advance Rulings, as well as best practices identified and recommended for each process that might be applied by the member Economies.

Part IX.
Conclusions

Conclusions

- 1.- The project achieved the objectives that have been proposed. Some of this fulfilled objectives are:
 - Member Economies that attended the Workshop could collect detailed information about legal issues, logistic issues and the operational process on Valuation Advanced Rulings in more experienced economies.
 - Member Economies that attended the Workshop could compare processes that have been implemented by more experienced economies.
 - Member Economies that attended the Workshop could identify the benefits that the mechanism had granted to economies with a best experience in its application.
 - Member Economies that attended the Workshop could identify best practices in each process for the application of Valuation Advanced Rulings, according to the collected information in the Workshop and as a result of the opinion exchange carried out in working groups.
- 2.- Achieving the project's objectives in a complete and satisfactory manner will allow Member Economies that do not apply the Valuation Advance Rulings yet to implement the system efficiently, or to improve its application in the economies that have already implemented this mechanism.
- 3.- The project impact can be measured in the future by the benefits produced by the implementation of the Advance Ruling in APEC member economies in trade facilitation, clearance cost and time reduction and a high level of user satisfaction.
- 4.- By holding the workshop, we could realize that events promoted by APEC represent a great opportunity for experience exchange among member economies. This workshop has been useful for member economies, in order to achieve an efficient implementation in economies that have not implemented the system yet and to improve processes in economies that are already applied.
- 5.- An identified priority as an outcome of the project has been the need to know the implementation process that followed member Economies with experience on Valuation Advance Ruling application, in order to identify best practices in implementation and introduction processes to this mechanism. For this reason and to further continue in 2009 the work done, a new project called "Workshop on Implementation of Valuation Advance Rulings in APEC Member Economies" has been presented for approval.

Part X.
Recommendations

Recommendations

Based on the best practices identified by the work groups in the Workshop and from experiences collected in the Valuation Advance Rulings' application in Australia, Japan, Korea, Malaysia and United States, the following guidelines are proposed:

- 1.- It is recommended for the competent office to issue Valuation Advance Rulings to be located in the headquarters of the Customs administration. The roles of this area must be technical and standard-like.
- 2.- It is recommended that to issue technical opinion in Valuation Advance Rulings the staff should have knowledge and experience in Customs valuation. As a common practice, member economies who apply the mechanism have approximately 5 specialists in the competent office, however staffing can change upon the real need of each Customs Administration based on presentation of applications number.
- 3.- In the workshop, the need to have a computing system for a better administration and management of Valuation Advance Rulings was identified. With this automation, Customs administrations would accomplish a better control of the issuing process.
- 4.- It is recommended for Valuation Advance Rulings to comprise the determination of a valuation method to be applied with the support of valuation rules. The Ruling must be bound to the application transaction and to a single importer, and it is issued based on the facts and documentation provided by the applicant.
- 5.- It is not appropriate for Customs Administrations to neither provide in the issued Advance Ruling the exact amount of Customs value nor to accept such value as definitive.
- 6.- The Ruling can be used in other future transactions provided that they are made by the same importer and upon the same circumstances and conditions in which it was issued.
- 7.- All information provided by the Valuation Advance Ruling applicant must be confidential.
- 8.- It is recommended for the Valuation Advance Ruling process to have a revision and appeal procedure in case the applicant disagree with the ruling decision. The applicant must request such revision or appeal.
- 9.- An average period of 90 days was identified for issuance of the Advance Ruling. In such period of time, the Customs Administration may request to the applicant the presentation of additional documentation, further information or more accurate quoted facts.
- 10.- A free of charge service was identified as a good practice; however, each Customs Administration should evaluate to charge a fee on a recovery basis.
- 11.- A reasonable validity period of 3 years for Valuation Advance Rulings was identified.
- 12.- It is recommended for an Advance Ruling to be annulled when a modification or change in facts, information and/or documentation to support its issuance is determined, as well as if Rulings has been issued based on wrong, incomplete or fake information.

13.- If an applicant provides fake information or withholds facts or circumstances related to an Advance Rulings, or does not comply the terms and conditions of the Ruling, the Customs Administration may enforce appropriate measures.

14.- The publication of Valuation Advance Rulings in the Customs Administration website was identified as a good practice bearing in mind confidentiality of certain information.

A summary of the best identified practices is presented in the following table:

ISSUES	IDENTIFIED BEST PRACTICE
Relevant area to issue Valuation Advance Ruling	<i>Centralized technical standard area</i>
Required staff	<i>Staff with knowledge and experience in customs valuation to issue a technical opinion on Valuation Advance Ruling. As a common practice there is approximately 5 officials</i>
Support Tools	<i>There is a need to have a computing system for a better Management of Valuation Advance Ruling</i>
Valuation Advance Ruling outreach	<i>Valuation advance Ruling must contain valuation method to be applied according to valuation standards. It must be related to a single transaction and a single importer</i>
information confidentiality	<i>All information provided by Valuation Advance Ruling applicants must be treated as confidential</i>
Appeal and review	<i>Valuation Advance Ruling process must have a review and appeal procedure required by user</i>
Term to issue Valuation Advance Rulings	<i>An average term of 90 days was identified to issue the ruling</i>
Service fees	<i>Not to charge a fee was identified as a good practice, but each economy may choose to charge a fee for the service on a recovery basis</i>
Valuation advance ruling validity	<i>A 3 year term is a reasonable term</i>
Valuation advance ruling publication	<i>Valuation Advance Ruling publication was identified as a good practice considering confidentiality of certain information</i>