

"CHANGES IN TRADE PATTERNS – A CHALLENGE FOR CVA"

25th Anniversary of the CVA, 17 November 2020

1. INTRODUCTION

I am truly delighted to participate in this extraordinary celebration of the 25th Anniversary of the Customs Valuation Agreement.

I would like to thank the WTO Secretariat and the Chairperson Carlos Guevara for inviting me to discuss the future of the Agreement together with this distinguished panel.

Samuel Johnson wrote at the beginning of the 19th century that '*the future is purchased by the present*'. The question is which price we would have to pay to have a valuable future.

2. CUSTOMS VALUATION OF GOODS IS FACING CHALLENGES DUE TO CHANGES IN TRADE PATTERNS

The Agreement has gone a long way in fulfilling the need, as described in its Preamble, to set out a fair, uniform and neutral system for the valuation of goods.

Nevertheless, this does not obviate the importance of reflecting on its future because the context of customs valuation – and in particular the trade environment covered by it – is permanently changing.

I would like to focus on two major challenges customs valuation is facing, among many others. They deserve a particular attention because they could, if not properly addressed, put at stake two of the foundations on which CVA is built: the notion of 'transaction' and the notion of 'good'.

The WTO Customs Valuation Agreement was conceived, as its predecessor of 1979, to cover basically international trade between companies selling and buying large consignments of goods.

It was hard to imagine 25 years ago that it would be asked one day to provide solutions to a new cross-border e-commerce, where the goods are sold, in small quantities and with low values, directly to consumers via online platforms.

And who could have predicted that for a number of goods, their value would be made of more ‘immaterial’ than ‘material’ components?

3. E-COMMERCE, A CHALLENGE FOR THE NOTION OF ‘TRANSACTION’

The Preamble of the CVA states that ‘*valuation procedures should be of general application without distinction between sources of supply*’. With international trade through e-commerce, not only the sources of supply are at stake but how goods are ordered, paid and supplied, and by whom.

E-commerce is of course to be welcomed, for the benefits it brings for businesses and consumers.

It represents however, for tax and customs authorities, a challenge to ensure the compliance of goods purchased online, in small quantities and often low value but in high numbers.

Customs in particular shall address both the financial and non-financial risks that such increasing part of global trade entails.

E-commerce is therefore both an opportunity and a challenge that requires a multi-faceted approach.

From a customs perspective, the European Commission recently launched a new strategic Plan for Action, where the management of e-commerce is one of the main headings.

4. INTANGIBLES, A CHALLENGE FOR THE NOTION OF ‘GOOD’

Another major challenge is the valuation for customs purposes of “intangibles” – for example intellectual property rights, software and related technology linked to or embedded in imported goods.

The Agreement addresses already the topic of royalties and license fees and assists. However, sometimes it might be a challenge to clearly classify ‘intangibles’, in particular under the category of ‘assists’.

Another situation that may present difficulties may be the treatment of additional payments for activating specific software functions of goods after their import.

The European Union has developed various internal instruments on these issues and is ready to discuss them with other WTO Members.

5. A MULTILATERAL APPROACH IS THE BEST TO ADDRESS THOSE CHALLENGES

The European Union played a pioneering role in establishing the very first multilateral system of customs valuation in 1950 - the so-called Brussels Definition of Value – as well as, in 1979, the GATT Valuation Code, which is substantially identical in its terms to the present WTO Customs Valuation Agreement.

The European Union remains today a firm supporter of that Agreement and of a coherent, harmonised-across-the-world approach to customs valuation.

We remain convinced that a multilateral approach is the best to consistently and effectively address challenges ahead, for customs valuation.

And we are committed to cooperate in identifying solutions in multilateral forums like the Committee on Customs Valuation and the Technical Committee on Customs Valuation.

6. CONCLUSION

Please let me conclude by expressing my special thanks and gratitude to the WTO Secretariat for organising this commemoration.

I cannot of course speculate on whether, in 2045, there will be a 50th anniversary of the present Agreement... or a future new agreement on Customs Valuation to commemorate...

But it is clear that any such celebration will be for my, our, successors!

Thanks for your attention.