



**Asia-Pacific
Economic Cooperation**

**Workshop on Implementation of Valuation Advance
Rulings in APEC Member Economies**

**Lima, Peru
September 29-30, 2009**

APEC Sub-Committee on Customs Procedures

December 2009

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 implementation 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 project.

APEC Project No. CTI 15/2009T

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APEC#209-CT-04.10

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Part I.
Background

Project Background

This workshop is a follow-up to the “Workshop on application of valuation criteria in Advance Rulings in APEC Member Economies” sponsored by APEC and held in Arequipa, Peru on 23-24 May 2008, which allowed us to collect best practices in the application process of Advance Rulings on valuation criteria in experienced economies on Valuation Advance Rulings’ application.

The main activities in the first Workshop were to collect information on the application process of Valuation Advance Rulings followed by more experienced economies, to exchange experiences on the application of Valuation Advance Rulings in different economies, and to identify benefits and best practices.

The Workshop was very beneficial for all participating economies since it enabled economies applying this mechanism to compare processes, which will allow improving their current processes. Furthermore it enabled economies that have not applied this mechanism yet to collect information on its application while identifying best practices, which will serve as a guide to implement this mechanism.

As a result of this Workshop there was an information and experience feedback both during experts’ presentations and working groups, which enabled participants to identify best practices in the application process of Valuation Advance Rulings. At Workshop closure, all participants agreed that collected information and identified best practices would be used in their own economies for an efficient implementation or a system improvement.

And also as a result of the Workshop, best practices in the application process of Valuation Advance Rulings were identified, such as:

- The area in charge of issuing the Valuation Advance Rulings shall be centralized and have regulatory and technical functions.
- The staff should have knowledge and experience in Customs Valuation. As a common practice the economies have five specialists however this number can change upon the presentation of the requests’ quantity.
- The need to have a computer system for a better administration and management of Valuation Advance Rulings.
- The Valuation Advance Rulings shall comprise the valuation method to be applied with the support of used valuation standards. The ruling must be bound to the request’s transaction and to a single importer, and it is on facts and documentation provided by the applicant. The Ruling can be used in other future transactions provided that they are made by the same importer and under the same circumstances and conditions in which it was issued.
- All information provided by the Valuation Advance Ruling applicant must be confidential.
- It is recommended for the Valuation Advance Ruling process to have a review and appeal procedure.

- An average period of 90 days was identified in order to issue Valuation Advance Rulings.
- A free of charge issuance of Valuation Advance Rulings was identified as a good practice; however, each economy may evaluate to charge a fee on a recovery basis.
- A reasonable validity period of up to three years for Valuation Advance Rulings was identified.
- The publication of Valuation Advance Rulings in the Customs Administration website was identified as a good practice bearing in mind confidentiality of certain information.

In the First workshop a priority identified by participants of APEC Economies was to learn about the implementation process followed by economies with greater experience in the application of Valuation Advance Rulings with the aim of identifying best practices in the implementation process and consequently having the complete process for implementing Valuation Advance Rulings effectively.

For further information on the Workshop Final Report, please visit the Publications sections in the APEC Secretariat's website as it is shown at the presentation.

Workshop Information

The workshop was held in Lima, Peru at the Event Room of the Radisson Hotel on September 29-30, 2009.

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 on implementation of Valuation Advance Rulings by more experienced APEC Member Economies, in order to efficiently implement this mechanism and identify advantages in its implementation process.

Representatives from all APEC Member Economies, Peruvian Customs officials (SUNAT) and Peruvian officials from the Ministry of Foreign Trade were invited.

A total of 37 participants from Australia; Canada; Chile; People's Republic of China; Indonesia; Japan; Republic of Korea; Malaysia; Mexico; Papua New Guinea; Peru; Russia; 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 implementation process of Valuation Advance Rulings.

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	Canada	1
3	Chile	1
4	People's Republic of China	1
5	Indonesia	1
6	Japan	1
7	Republic of Korea	1
8	Malaysia	1
9	Mexico	1
10	Papua New Guinea	1
11	Peru	23
12	Russia	1
13	Thailand	1
14	United States	1
15	Viet Nam	1
	TOTAL	37

Workshop Agenda

Tuesday 29 September

Day 1 - Workshop on implementation of Valuation Advance Rulings in APEC Members Economies

08.30am – 09.00am	Participants Arrival And Registration
09.00am – 09.10am	Event Opening and Welcome remarks Representative of SUNAT
09.10am – 09.30am	Official Photograph
09.30am – 09.45am	Break
09.45am – 9.55am	Summary of the Final Report of the first Workshop on Implementation of Valuation Advance Rulings in APEC Member Economies held on 24-25 May 2008 in Arequipa
09.55am – 10.05am	Guidelines on Workshop development
10.05am – 10.55am	Experience in the implementation of Valuation Advance Rulings in Australia Mr. Wayne Baldwin Manager, Valuation and Origin Trade Services Branch Australian Customs and Border Protection Service
10.55am – 11.10am	Questions & Answers
11.10am – 12.00pm	Experience in the implementation of Valuation Advance Rulings in Canada Mr. Pierre Trudel Deputy Director Origin and Valuation Division Canada Border Services Agency
12.00pm – 12.15pm	Questions & Answers
12.15pm – 14.15pm	Lunch
14.15pm – 15.05pm	Experience in the implementation of Valuation Advance Rulings in Japan Mr. Shuichi Komure Valuation Specialist, National Valuation Center Tokyo Customs Japan
15.05pm – 15.20pm	Questions & Answers
15.20pm – 16.10pm	Experience in the implementation of Valuation Advance Rulings in Korea Mr. SEO, Young-ju Valuation Specialist Korea Customs Service
16.10pm – 16.25pm	Questions & Answers
16.25pm – 16.45pm	Break
16.45pm – 17.35pm	Experience in the implementation of Valuation Advance Rulings in the United States Mr. Fernando Peña Valuation Branch Office Of International Trade U.S. Customs
17.35pm – 17.50pm	Questions & Answers

Wednesday 30 September

Day 2 - Workshop on implementation of Valuation Advance Rulings in APEC Members Economies

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 Annex) by all working groups according to presentations per each economy
10.00am – 10.40am	Discussion and review of Topic 2 (see Annex) 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 Annex) by all working groups according to presentations per each economy
11.40am – 12.20pm	Discussion and review of Topic 4 (see Annex) 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 – 16.20pm	Discussion and review of the developed matrix and identification of best practices which have been considered by the participating economies
16.20pm – 16.40pm	Break
16.40pm – 17.00pm	comments and conclusions by Speakers
17.00pm – 17.10pm	comments by Participants
17.10pm – 17.30pm	Workshop Closure

End of the Workshop

Annex To The Agenda

Topics to be discussed in the Working Groups

Topic 1

1.- Requested legal framework, policies and strategies developed in the implementation stage

- Rules established in Trade Agreements asking for their application
- Domestic rules and governmental policies, which established the application of rules
- Required procedures and processes for an effective implementation and functioning of the Valuation Advance Rulings
- Strategies carried out in the implementation
- Participation of private sector in the implementation stage
- Public relations and coordination between business and foreign trade users regarding implementation of Valuation Advance Rulings
- Publication and dissemination before the entry in force of this mechanism

Topic 2

2.- Logistic aspects for the implementation of Valuation Advance Rulings

- Required resources for implementation
- Need and support for a creation of an area within the organization in charge of issuing the Valuation Advance Rulings
- Organizational structure
- Requested personnel
- Personnel functions
- Computer systems developed in the implementation stage
- Required furnishings and equipments

Topic 3

3.- Implementation

- Required time for implementation
- Training for Customs personnel
- Implementation impact on external users (importers, Customs agency, associations)
- Implementation impact on Customs clearance
- Drawbacks arose from process implementation and how overcome them

Topic 4

4.- Process design

- Operational process design
- Flowchart of process
- Registry design and tracking of issued applications and Rulings
- Development of computer system

Opening and Welcoming Remarks

By
Mr Carlos Ramirez
Associated National Superintendent of Customs
National Superintendency of Tax Administration (SUNAT)
Meeting room of Radisson Hotel, Lima, Peru
29-30 September 2009

Distinguished Delegates
Distinguished Speakers
Ladies and Gentlemen

It is an honor and privilege for the Peruvian Customs Administration to welcome you to Lima, venue of the Workshop on Implementation of Valuation Advance Rulings in APEC Member Economies and I also would like to wish you a nice stay in this beautiful city.

This workshop is a follow-up to the Workshop on Application of Valuation Criteria in Advance Rulings in APEC Member Economies, held on 23-24 May 2008 in Arequipa, which enabled us to learn best practices in the application of Advance Rulings on Valuation Criteria in more experienced economies. Participants also established as a priority in this second phase to learn the implementation process and collect case-based experiences on the application of valuation criteria in advance rulings.

Thus the APEC Budget and Management Committee approved funding for a project proposal submitted by PERU to hold this Workshop, which aims at providing information on the implementation process and identifying best practices on Valuation Advance Rulings, which enable to facilitate customs clearance, while reducing transaction cost and time in goods import.

The APEC Member Economies apply control mechanisms within the value control process in clearance when importing goods. In this regard, to obtain a balance between foreign trade facilitation based on good faith and truthfulness and customs control based on risk management techniques, it is possible that delays in goods clearance processes may arise and consequently the importer will incur in additional costs for warehousing or financial costs for the presentation of guarantees.

For such reason there is a great interest and need from APEC Economies to learn the value control processes followed by the Economies with experience in its application in order to identify best practices. This challenge is shared by many APEC Member Economies who will contribute to facilitate trade through automated and transparent value control, thus simplifying the customs clearance process.

The effective implementation of value control mechanisms in the clearance of goods and in the post clearance process shall contribute to the facilitation of customs clearance, to reduce cost and time in clearance of imported goods, and provide more security to foreign trade operators due to a higher predictability at customs clearance.

The Leaders' Declaration of Lima in 2008 welcomes new model measures, resulting in a set of 15 completed chapters for Regional Trade Agreements (RTAs) and Free Trade Agreements (FTAs). Within the scope of Trade Agreements and Conventions, several Member economies are signing Trade Agreements, which establish measures aiming at reducing trade transaction costs. Therefore it is necessary to adopt measures oriented to facilitate the clearance in terms established by such Agreements.

We expect to collect the experiences from Australia, Canada, Korea, Japan and the United States on the implementation of Valuation Advance Rulings so other economies yet to apply it, may efficiently implement this system.

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



He 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 matter 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 9 years. He was a speaker in the 2008 APEC Sub-committee on Customs Procedures held in Arequipa-Perú, whose presentation was related to the application of Valuation Criteria in Advance Rulings in Australia.

2. Shuichi Komure



Shuichi Komure is a Valuation Specialist of Tokyo Customs of the Ministry of Finance of Japan. He is 38 age old. He has more than 14 years Customs experience mainly at the Customs Valuation and Post-clearance Audit. Since July 2000 to June 2002 he was an Auditor in charge of Post-clearance Audit in Nagoya Customs. Since July 2002 to June 2005 he was an Auditor in charge of Post-clearance Audit and Customs valuation, Nagasaki Customs. Since July 2005 to June 2008 he was a Section Chief in charge of Customs Valuation of the Customs and Tariff Bureau of the Ministry of Finance. And since July 2008 he is an Auditor in charge of Post-clearance Audit of Tokyo Customs.

3. 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 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.

4. SEO Young-Ju



SEO Young-Ju is a Valuation Specialist of the Korea Customs Service.

5. Pierre Trudel



Pierre Trudel is Deputy Director of Origin and Valuation Division of the Canada Border Services Agency.

Mr. Trudel has worked for Canadian Customs for over 35 years.

Mr. Trudel currently manages Canada's Valuation Program and has been involved in Customs Valuation at headquarters since 1990. Mr. Trudel is also Canada's delegate to the World Trade Organization's Technical Committee on Customs Valuation, as hosted by the World Customs Organization.

He has participated in Canada's implementation of the WTO's Customs Valuation Agreement, and has over the years held various positions in both the policy and administration of customs valuation. Mr. Trudel has worked with over 30 countries providing technical assistance and capacity building, most notably in APEC's efforts to support member implementation in the late '90s but has also worked in Africa, Eastern Europe, the Caribbean, and Central America.

Part II.
Presentations



Australian Government
Australian Customs and
Border Protection Service



Asia-Pacific
Economic Cooperation

Workshop

Implementation of a Valuation Advance Ruling scheme

APEC Member Economies



Australian Government
Australian Customs and
Border Protection Service

(a) Legal framework, policies and strategies developed in the implementation phase of the valuation advance ruling scheme



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.



- 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.



Australian implementation

- Australia set up a system of providing valuation advance rulings in 1988.
- The first task was to set up a working group to examine methods to implement the scheme.
- Working group comprised both customs and customs clients (customs brokers and consultants)



- The purpose of the scheme was to provide a binding valuation advice service for the convenience and guidance of clients.
- An two tier system was set up to facilitate the implementation.
- The first tier was a temporary administration system which allowed rulings to be issued while work progressed on setting up the second tier.
- The second tier was to be a long term scheme back up by legislation.



- The **first tier** temporary administration system:
 - provided rulings upon written request from the client;
 - no formal ruling request form was used;
 - scheme was in place for two years while the second tier permanent scheme was developed and implemented.



- The **second tier** permanent (long term) scheme:
 - was initially designed with a legislative backing;
 - because the temporary scheme worked so well without legislation it was decided to design the permanent scheme to be administrative based;
 - permanent scheme commenced in October 1990.



Why did Australia choose to have no legislation backing

- Rulings made by in Australia are binding on Customs and Border Protection under Government administrative arrangements which require that all correspondence provided by a Government Department is binding on that Department.



(b) Procedures and processes required for an effective implementation and performance of a valuation advance ruling scheme



- To ensure effective implementation the scheme requires open support and 'championing' from Management.
- A dynamic, enthusiastic implementation team is required.
 - The team must be open and creative thinkers;
 - Able to promote and sell the scheme;
 - Able to accept criticism and act on that criticism.



First task

- First task is to determine the aim of the scheme.
- Determine how can this aim be implemented:
 - in a workable, cost effective manner.



- In Australia it was decided that the aim of the scheme was to provide binding valuation rulings 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.



- This aim was also to advise clients that the scheme would not provide a valuation ruling that advised the client of the amount of the customs value for individual goods.



Subsequent tasks

- Information flow:
 - how will information be received and disseminated – paper or IT?
 - what information is required?



- Time frames – the implementation team has to decide on time frames to be incorporated into the scheme, such as:
 - the time it will take Customs to produce the ruling;
 - timeframe to produce additional information;
 - the life of the ruling;
 - etc



- Determination of the duties for each staff member in the team that will provide the ruling.
- Determine if the new advance ruling staff require training to be able to issue the ruling-if so develop and deliver training course.



- Determine what advance ruling elements (as discussed at workshop #1) are to be included in the scheme.
- Such elements are:
 - use and application of ruling;
 - client obligation when using a ruling;
 - when a ruling can't be used;
 - amendments to a ruling; etc



- Determine other critical elements required for the scheme.
- These elements are covered in details in subsequent topics, they include:
 - staff numbers required;
 - location of staff who issue the ruling;
 - equipment required by the staff who issue the ruling; etc



(c) Dissemination and publication of the valuation advance ruling scheme before its entry into force



- In 1988 when Australia first implemented the valuation advance ruling system Customs and Border Protection did not have a web page.
- Clients (in 1988 it was limited to clients within Australia) were notified of the scheme by two means:
 - 1. An 'Australian Customs Notice' which is a mechanism used by Australia to notify clients of important customs news; and
 - 2. By news from within own industry representative bodies who were part of the working group.



- In 1988, Australia published Customs Manuals (now replaced by Practice Statements and Instructions and Guidelines).
- The manual on Customs Valuation included a chapter on the advance ruling scheme.
- This chapter informs clients of all aspects of the scheme. A copy of the updated instructions and guidelines is included in your handouts.



- When Australia created an internet webpage, information on Customs valuation was included.
- The Customs Manual was also made available on the webpage.



(d) Participation of external users in the implementation phase of the valuation advance ruling scheme



- The first task to implement the Australian advance ruling scheme was to set up a working group to examine possible methods of implementation.
- Working group comprised both customs and customs clients (customs brokers and consultants)



- The external users on the working group provided valuable information on:
 - timeframes for issuing the ruling;
 - ability of clients to obtain the information required by Customs and Border Protection to enable the ruling to be issued;
 - timeframe for life of ruling; etc



- Post implementation, the external users provided valuable feedback on the effectiveness of the scheme
- The feedback was provided at regular intervals, that is at 6, 12, 18 and 24 months after implementation.
- Feedback was a valuable source of information on how to ensure the scheme delivered its aims.



(e) Creation of an area within the organisation responsible for issuing the valuation advance ruling



- Valuation policy is set by head office (Canberra) and administered by regional offices.
- Valuation advance rulings are issued centrally by one region.
- Review and appeal of rulings is administered by head office (Canberra).



- 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 to Melbourne, i.e., rulings for anywhere in Australia are now issued by the Melbourne office:
 - Why? Because of the low volume of advices now issued and the need to ensure that staff who issue the advice are experts



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



(f) Logistics required for implementing the valuation advance ruling scheme (computer systems, personnel, equipment etc)



Staff required to issue ruling

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



Computer system

- Australia uses a computer system to record, receive and process advance rulings.
- The system has been developed in house by the IT section.
 - For details refer to the Tariff and Precedents Information Network fact sheet.



Valuation library

- Australia has created a library of valuation resources. The library contains:
 - Legislation, the WTO agreement, legal decisions, policy information, INCOTERMS, etc
 - Customs Valuation: Commentary on the GATT Customs Valuation Code by *Sherman and Glashoff*.



(g) Difficulties in the implementation process and how they were solved



- Australia did not encounter any significant problem during the implementation phase.
- The main problem that Australia continually has is that of obtaining full and detailed documents from clients.
- This is because the advance rulings is based on complete and accurate information.
 - It is the obligation of the client to provide all relevant information – Australia will not issue a ruling unless all relevant information has been provided.



(h) The impact of the application of valuation advance rulings among external users and in the customs clearance process



- 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.
- The result of a client using an advance ruling is cost saving to the client and to Customs.



- 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.



- 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.
- Advance rulings also assist in making customs audits quicker and more efficient.



- 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.

Experience on implementation of Valuation Advance Rulings in Canada



Why are Advance Rulings Important?

- Not a WTO / CVA requirement
- Reflects spirit of Customs Valuation Agreement
- Addresses needs:
 - Customs: compliance & revenue
 - Importers: certainty & predictability
 - Efficient borders
- Part of international trade agenda - Doha
- Important to APEC members

2

Why are Advance Rulings important to APEC Members?

- Transparency
- Client service
- Compliance tool
- Risk management tool
- Important source of information

3

Model Advance Ruling Program

- Centralized program
- Knowledge & experience
- Support tools / Computers
- Scope
- Terms & Conditions

4

Model Advance Ruling Program

- Review & Appeal
- Service Fee
- Service Standard & Validity
- Publication
- Confidentiality

5

Canada's Experience

- Long standing practice
- Decentralized Program Delivery
- Policy Development
- Technical Reference System

6

Canada's Experience

- Terms and Conditions
- Compliance Strategy / Legislation
- Quality Assurance
- Informal Review Process

7

Canada's Experience

- National Compliance Strategy:
 - Identification of "at risk" priorities
 - Targeting "at risk" population
 - Verification / audit activities
 - Rulings issued / revenue adjusted /sanctions applied
 - Report and analyse
 - Monitor

8

Major Challenges:

- Develop & maintain valuation expertise
- Relevant policy development
- Transfer Price vs Customs Value
- Ensuring consistency / Quality Assurance
- “Free Trade” environment

Valuation Advance Rulings System in Japan

Shuichi KOMURE

Valuation Specialist

National Valuation Center, Japan

Peru, 29-30 Sep 2009

APEC SCCP Workshop on Implementation
of Valuation Advance Rulings

1

Outline

- I. Overview of Valuation Advance Rulings
- II. Procedures & Proceedings
- III. Experiences
- IV. Summary

Peru, 29-30 Sep 2009

APEC SCCP Workshop on Implementation
of Valuation Advance Rulings

2



I. Overview of Valuation Advance Rulings

Peru, 29-30 Sep 2009

APEC SCCP Workshop on Implementation
of Valuation Advance Rulings

3



Valuation Advance Ruling is

- issued in writing to respond an inquiry by applicant
- regarding customs valuation issues (interpretation and application of laws and regulations, etc)
- for enabling them to lodge customs declarations appropriately

Peru, 29-30 Sep 2009

APEC SCCP Workshop on Implementation
of Valuation Advance Rulings

4

Legal Basis

■ 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.



Peru, 29-30 Sep 2009

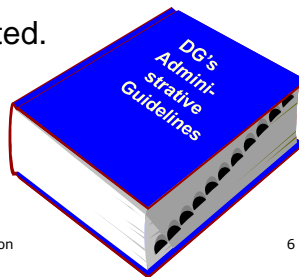
APEC SSCP Workshop on Implementation
of Valuation Advance Rulings

5

Legal Basis

■ Administrative guidelines issued by the Director-General of the Customs and Tariff Bureau, Ministry of Finance

- The administrative guidelines have introduced procedures for written valuation advance rulings in July 2005.
- Such guidelines have been updated.



Peru, 29-30 Sep 2009

APEC SSCP Workshop on Implementation
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Implementation Process

■ Example:

- Tariff Classification Advance Rulings System
- Advance Rulings system of National Tax Agency

■ One-year preparation

■ Public relations

- Public release of the administrative guidelines, prior to implementation;
- Leaflet developed;
- Meetings held.

Benefits

- Increase in predictability;
- Reduction of risk of incurring additional amount of duties, as a result of PCA;
- Facilitation of clearance of the imported goods.

II. Procedures & Proceedings

Applicants

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

Proceedings

■ Means to request

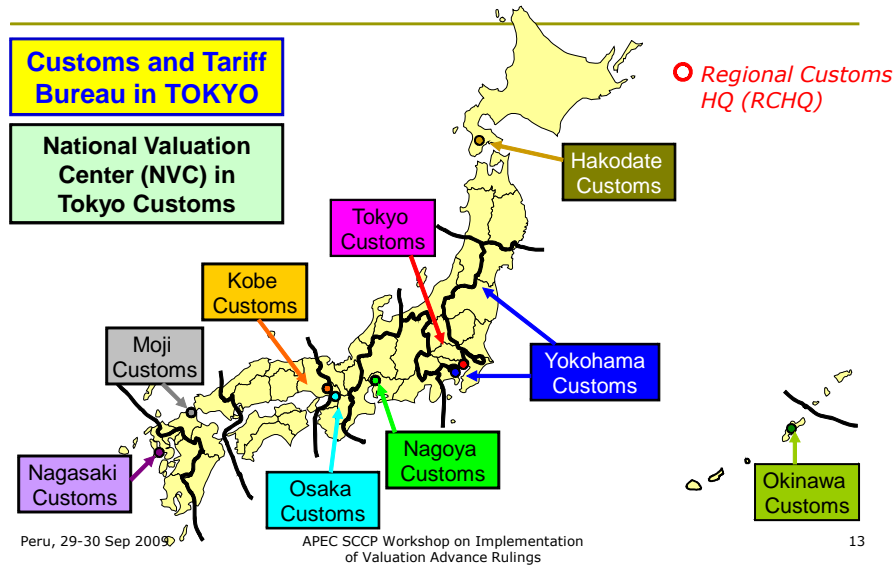
- An application for valuation advance ruling has to be submitted, in writing, to the RCHQ controlling a main office of clearance.
- An application will be able to make through the online computer system in February 2010.

Requirements

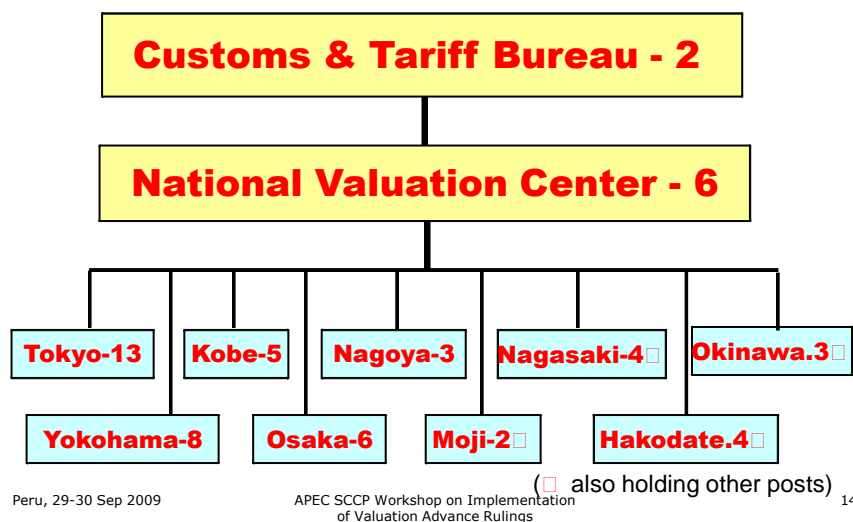


- All necessary information, including an application form and supporting documents, to be submitted before a declaration of duty is made;
- Additional information to be submitted at the request of the Customs;
- Documents in foreign languages to be translated into Japanese at the request of the Customs.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

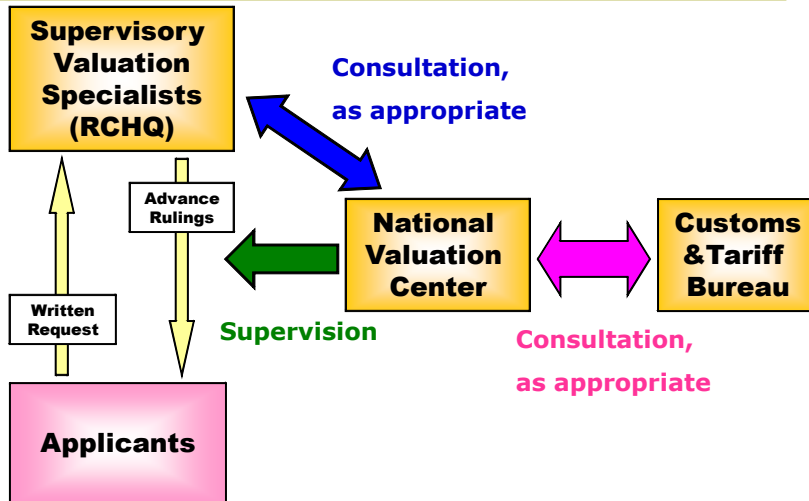
Organizational Structure



Number of Officers Responsible for Customs Valuation



Proceedings

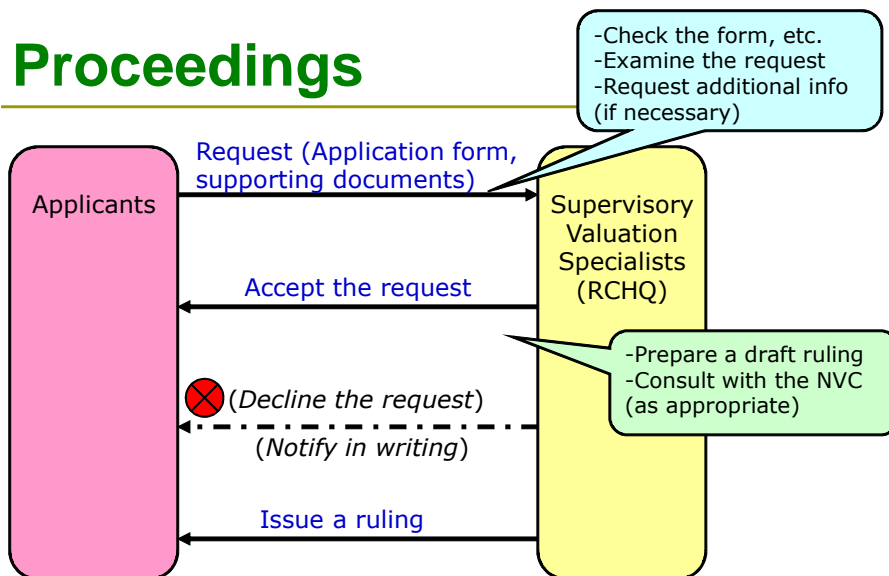


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Cases Where a Valuation Advance Ruling is not Issued



- Where a written request does not meet the requirements.

(Examples)

- The transaction in question is fictitious or illegal.
 - The request seeks for information on how to alter or structure transactions to avoid or to minimise the payment of duty.
- Where a duty declaration of the goods in question has been made.
 - However, issued if the goods are still to be imported thereafter.

Timeframe



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



Ruling Content

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

Use and Application

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

Term of Validity

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

Modification or Revocation

- 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.
- A period of grace is not given to the holder of the ruling.
 - The ruling is not applicable once it was modified or revoked.

Request for Review

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

Publication

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

 **Transparency**



Binding Feature

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

Improvement

- Relaxed the requirements
 - adding “the future transaction on which applicants can submit the relating documents” to the scope of valuation advance rulings.
- Publication of valuation advance rulings
 - deleting business confidential information and references to specific parties of the transaction
- Computer System

III. Experiences

Peru, 29-30 Sep 2009

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Experiences

- At the end of Jun 30 2009, 17 rulings in total since the introduction of valuation advance rulings

	Issued	Average
➤ 2005	1	89 days
➤ 2006	1	76 days
➤ 2007	5	78 days
➤ 2008	10	25 days

*the period of each year starts on Jul 1 and ends Jun 30 next year

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Experiences

■ Topics of issued valuation advance rulings

- Sale for export to Japan in a series of sales situation(1)
- Whether the transaction value in related parties can be acceptable or not (1)
- Price actually paid or payable (3)
- Assist (2)
- Royalties (2)
- Transportation and related costs (5)
- Application of the fall-back method (3)

IV. Summary

Summary

- What are the main purposes of implementation of valuation advance rulings system ?
 - Predictability
 - Facilitation of clearance
 - Transparency

 **Trade Facilitation**

Experience on implementation of Valuation Advance Rulings in Korea



I. Overview

1. Definition

- A process in which a taxpayer gets prior confirmation of the customs on the method of determining customs value of imports

- 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

- Pre-ruling on whether ordinary imports traded between unrelated parties are subject to Article 1 and 8 of the WTO Customs Valuation Agreement
- Pre-ruling on the customs valuation method applicable to imports traded between related parties

3. Pre-ruling Period

- Ordinary imports: within 1 month after the application

- Imports between related parties: within 1 year after the application due to the complexity in the examination process

- 4 -

I. Overview

4. Advantages

- 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

5. History

- Dec. 31, 1990: Introducing Valuation Advance Ruling for ordinary imports in the Customs Act
- Dec. 28, 2007: Adopting ACVA on transfer price between related parties
 - ACVA stands for Advance Customs Valuation Arrangement and applies only to transaction value between related parties.

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I. Overview

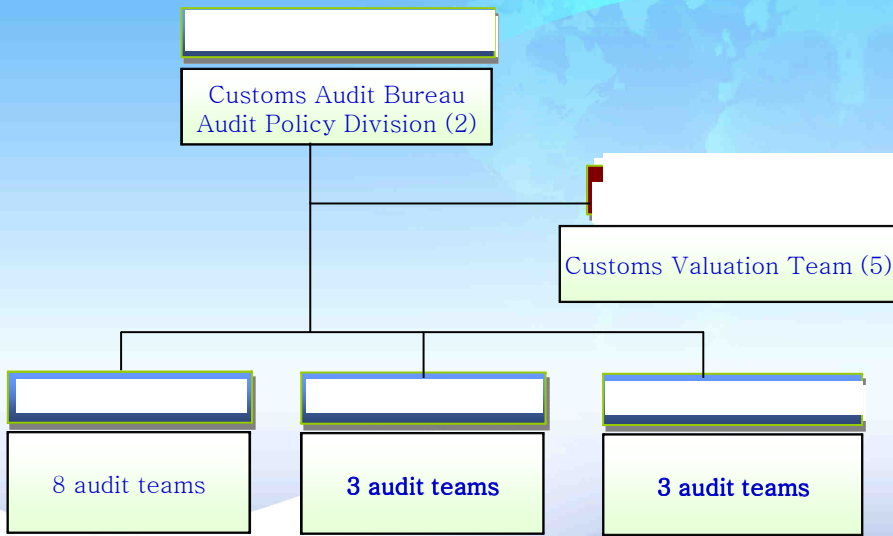
6. Qualification for Advance Ruling Application

- 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 Advance Ruling

7. Organization for Valuation Advance Ruling & its Operation

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

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I. Overview

6. Revision of Customs Act for Valuation Advance Ruling

- ❑ 1991~2007: only regarding actual transaction value, factors to be added and deducted, transaction value requirement regardless of trader relations
- ❑ 2008~ : separately including transactions between related parties

Distinguishing related party transactions from unrelated party transactions
- No big difference between existing Valuation Advance Ruling and ACVA

Mainly on ACVA

II. Valuation Advance Ruling (Ordinary Imports)

1. Scope

- ❑ Application for valuation advance ruling is confined to following matters due to the limit in administrative capacity of the customs
- ❑ Scope of Valuation Advance Ruling
 - Confirmation the actually paid amount and factors to be added or deducted
 - Confirmation of transaction value requirements (conditions or circumstances, restrictions on disposal or use, post-import proceeds, influence of special relations between traders)

Provisions of Article 1 and 8 of the WTO Customs Valuation Agreement

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II. Valuation Advance Ruling (Ordinary Imports)

2. Application

- ❑ A company should submit an application form to the Head of the CVCI before filing import declaration and price declaration
- ❑ Required documents
 - 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 customs value determination of imported goods
 - Other documents necessary to confirm customs valuation methods

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II. Valuation Advance Ruling [Ordinary Imports]

3. Handling of 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
- ❑ A Valuation Advance Ruling certificate is issued to a taxpayer after examination within 1 month
- ❑ The certificate is delivered to the head of the customs of clearance, too

4. Legal Effect of Valuation Advance Ruling

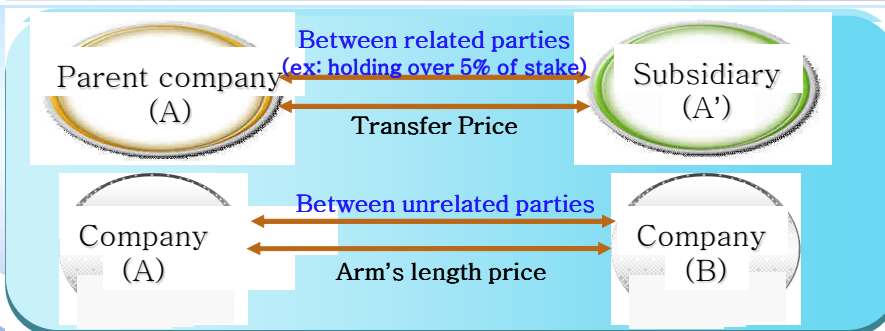
- ❑ The head of the customs of clearance determines the customs value of imports according to the legally issued certificate of Valuation Advance Ruling

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II. 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, price control, Cash flow, etc.



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II. ACVA

2. Definition

□ 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

3. Legal Ground

- Customs Act: definition & scope of ACVA
- Enforcement Decree: ACVA period, requirements for customs value determination based on ACVA results
- Notification & Internal Rule: detailed procedures

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II. ACVA

Article 37 of the Customs Act (Valuation Advance Ruling)

- If a person who is liable to declare the payment of duty under Article 38 (1)(Declaration and Payment), has any doubt about determination of the customs value, he may request the Commissioner of the Korea Customs Service to examine it in advance before the declaration of value.
- Scope
 - 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
- Commissioner should notify the results to the applicant.
- The Customs accepts customs value of imports declared by a taxpayer based on the notified results.

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II. ACVA

Article 31 of the Enforcement Decree of the Customs Act (Valuation Advance Ruling)

- The advance examination period is 1 month for ordinary imports and 1 year for imports traded between related parties.
- Documents required for application : as attached
- Requirements of customs value determination according to the ruling
 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

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II. ACVA

4. Relation between Post Audit & ACVA

- An already ongoing corporate post audit is not suspended by an application of ACVA
- However, even if a company is selected for post audit, if ACVA is undergoing on the company before the post audit starts, the corporate post audit can be postponed

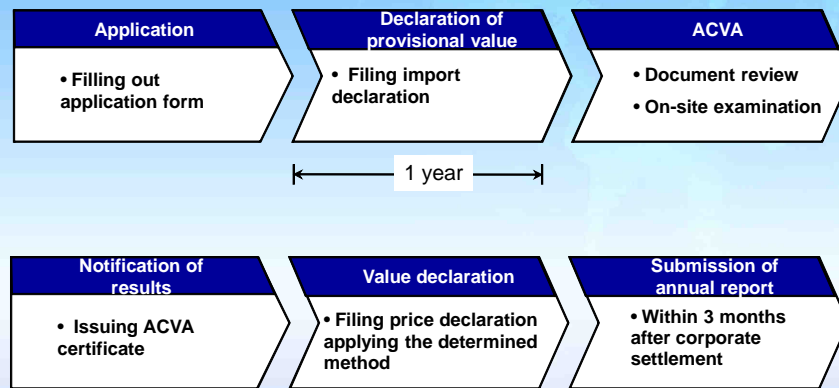
5. Pre-consultation

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

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II. ACVA

6. ACVA Procedure



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II. ACVA

7. Application Procedures & Required Documents

A company should fill out an ACVA application form and submit it to the Head of the CVCI without additional fee

Required documents

1. Explanatory documents on business history, business details, organization, investment relationship, etc. of the company
2. Financial statement, ALP declaration (tax declaration) over the recent 3 years
3. Contract of import transaction and accompanying documents (investment contract, agency contract, tech outsourcing contract, tech purchase contract, etc)
4. Documentary evidence on value determination of imported goods
5. Document proving an APA approval has been obtained from NTS, if applicable
6. Transfer price report made by an accounting firm, if applicable
7. Document proving whether special relations have influenced transaction value
8. Other documents necessary to confirm customs valuation methods

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8. Application Review Procedure

- The ACVA application form and appended documents are reviewed by 『ACVA T/F』 in the Customs Valuation and Classification Institute
- 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
- If there is any change in the transaction, etc. before the completion of ACVA, the applicant can revise or withdraw the application.

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9. Notification of ACVA result

- The Head of the CVCI shall notify the applicant of the review result and he should submit an opinion in writing to the Head of CVCI within 15 days from the receipt of the notification, whether or not he agrees with the review result
- If the applicant does not agree or fails to notify the Head of the CVCI with his written consent within the specified period, it shall be regarded that the application for ACVA is withdrawn.
- If the applicant submits a written consent, the Head of the CVCI must issue ACVA certificate

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II. ACVA

10. Submission of annual report

If ACVA is approved, the taxpayer must submit the annual report with the following information included within 3 months from the following day of the end of fiscal year

1. Critical assumption and its realization as a prerequisite of the approved ACVA
2. Customs value calculated by the approved ACVA and its calculating process
3. The method used to adjust the difference between actual transaction values and the customs values calculated by the approved ACVA
4. Other information agreed to be included in the annual report

II. ACVA

11. Import Declaration after ACVA Application

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

12. Retroactive Application of ACVA Results

ACVA results are applicable to imports declared within 3 years after its completion and not applied retroactively

However, for an excessively or less paid amount found in the process, the customs can request the taxpayer to get refunded or pay the amount

13. Cancel, Change and Renewal of ACVA

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

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

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14. Obligation of Confidentiality

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

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II. ACVA

15. Advantages & Disadvantages of ACVA

□ Advantages

- Reducing chance of post audit on transfer price
- Easing burden of additional tax and penalty caused by omission of customs value
- Saving administrative resources and securing stable tax revenue

□ Disadvantages

- Increasing accounting and law cost required for ACVA application and preparation of documents
- Rising burden on human and physical resources due to the need to analyze massive amount of data

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III. Improvement in ACVA Program

1. Establishment of ACVA Team

- Building a dedicated ACVA team in the CVCI (composed of 5 officials)

□ Main Operations

- Exclusively dealing with ACVA business
- Studying ways to apply APA results in customs valuation
- Developing ways to adjust differences between transfer pricing method and customs valuation method
- Joining international efforts to harmonize transfer pricing taxation and customs valuation

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III. Improvement in ACVA Program

- ❑ One ACVA T/F in the CVCI exclusively covers ACVA business
- ❑ The Head of the CVCI organizes the team taking into consideration the number of ACVA applications, size of applying companies, type of industry, workload, etc

- ❑ 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

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III. Improvement in ACVA Program

- ❑ Roles of each team member
 - Institution(1): institutional revision, legal overhauling
 - Customs valuation(2) : application reception, pre-consultation, review of factors to be added or deducted, and customs valuation method
 - Corporate audit & accounting(2) : review of submitted documents (composed of a corporate audit expert and a CPA)

- ❑ 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

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III. Improvement in ACVA Program

2. Publication of ACVA Guideline for Taxpayers

- ❑ Publishing ACVA Guideline for both taxpayers and customs authorities to encourage the use of ACVA and enhance objectivity in connection with administrative procedure for ACVA
- ❑ Contents of the Guideline
 - Customs valuation methods for transfer price recognized in the customs valuation agreement
 - Comparison between transfer pricing taxation and customs valuation
 - Administrative procedure for ACVA

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III. Improvement in ACVA Program

3. Launch of an Official Channel for Harmonization of Customs Duties and Internal Taxes

- ❑ Formation of 「Relevant Agency Consultations」 (MOSF)
 - 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
- ❑ Signing MOU with NTS for Cooperation(13th January 2009)
 - Information exchange, joint investigation, cross participation in APA/ACVA

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Workshop on Implementation of Valuation Advance Rulings in APEC Member Economies

Valuation and Special Programs Branch
Office of International Trade
U.S. Customs



- **Overview**
- U.S. Implementation
- Logistics
- Process
- Conclusion

Purpose

- Advance Rulings **inform the trade** and public of legal requirements
- Advance Rulings **give certainty and predictability** to business transactions
- Advance rulings **facilitate clearance of goods** and **save customs resources**

3

What do you need for a successful implementation?

- Management buy-in and support
- Stakeholder involvement: trade community
- Robust legal framework: legislative or administrative
- Public knowledge
- Trained personnel
- Rulings must be binding

4

- Overview
- **U.S. Implementation**
- Logistics
- Process
- Conclusion

5

History

- **1975**
 - Proposed rule to establish rulings program.
 - **Stakeholder participation:** 23 public meetings with corporations, law firms, customhouse brokers, associations and individuals
 - 6 months later scheme took off
 - All rulings issued by Headquarters Office: value, tariff classification, origin.
- **1980**
 - Volume was overwhelming, and rulings were taking in excess of 100 days for issuance
 - Tariff classification rulings were shifted to commodity experts at the New York district National Import Specialist Division
- **1993**
 - Electronic database for publication of rulings (CROSS)
 - Procedures for review, modification and revocation streamlined

6

Legal Framework

- **U.S. Statute**

- Section 402 of the Tariff Act of 1930 (Pub. L. 71-361)
- Trade Agreements Act of 1979 (Pub. L. 96-39)
- Statement of Administrative Action (SAA, H.R. Doc. No. 153, 96 Cong., 1st Sess., part 2)
- 19 U.S.C. 1401a

- **International Agreements**

- Article VII of the General Agreement on Tariffs and Trade (i.e., the WTO Valuation Agreement)
- Free Trade Agreements

- **Administrative Authorities**

- Regulations (19 C.F.R. 177)
- Standard Operating Procedures (SOP) for Issuance of Rulings



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Legal Framework

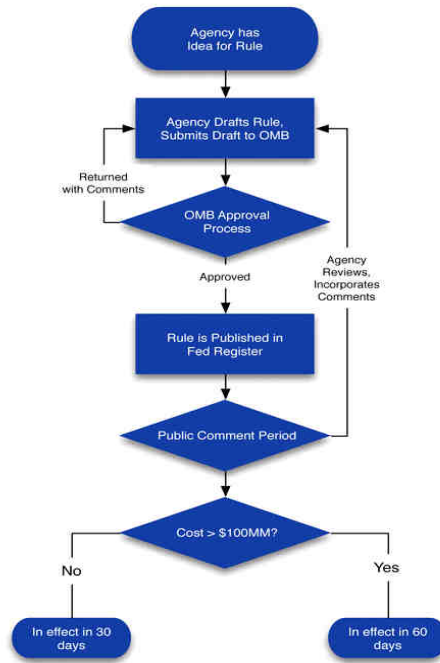
Part 177, CBP regulations; 19 CFR Part 177 provides that:

- 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

8

Rulemaking

- Regulatory function is delegated to agencies by the Congress
- Governed by the Administrative Procedure Act
- Graph to the right represents process followed to adopt a rule



Incorporation into our FTAs



U.S.-Perú Trade Promotion Agreement (2006)

ARTICLE 5.10: ADVANCE RULINGS

U.S.-Perú TPA:

ARTICLE 5.10: ADVANCE RULINGS

1. Each Party shall issue, before a good is imported into its territory, a **written advance ruling at the written request** of an importer in its territory, or an exporter or producer in the territory of another Party with regard to:
 - (a) tariff classification;
 - (b) **the application of customs valuation criteria for a particular case, in accordance with the application of the provisions set forth in the Customs Valuation Agreement;**
 - (c) the application of duty drawback, deferral, or other relief from customs duties;
 - (d) whether a good is originating in accordance with Chapter Four (Rules of Origin and Origin Procedures);
 - (e) whether a good re-entered into the territory of a Party after being exported to the territory of the other Party for repair or alteration is eligible for duty free treatment in accordance with Article 2.6 (Goods Re-entered after Repair or Alteration);
 - (f) country of origin marking;
 - (g) the application of quotas; and
 - (h) such other matters as the Parties may agree.

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U.S.-Perú TPA:

ARTICLE 5.10: ADVANCE RULINGS (cont.)

2. Each Party **shall issue an advance ruling within 150 days after a request**, provided that the requester has submitted all information that the Party requires, including, if the Party requests, a sample of the good for which the requester is seeking an advance ruling. In issuing an advance ruling, the Party shall take into account facts and circumstances the requester has provided.
3. Each Party shall provide that advance rulings shall be **in force from their date of issuance**, or another date specified in the ruling, provided that the facts or circumstances on which the ruling is based remain unchanged.
4. The issuing Party may **modify or revoke** an advance ruling after the Party notifies the requester. The issuing Party may modify or revoke a ruling retroactively only if the ruling was based on inaccurate or false information.
5. Subject to any **confidentiality** requirements in its laws, each Party shall make its advance rulings **publicly available**.
6. If a requester provides false information or omits relevant facts or circumstances relating to the advance ruling, or does not act in accordance with the ruling's terms and conditions, the importing Party may apply appropriate measures, including civil, criminal, and administrative actions, monetary penalties, or other sanctions.

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- Overview
- U.S. Implementation
- **Logistics**
- Process
- Conclusion

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Our set up

➔ Value rulings are all issued at HQ level

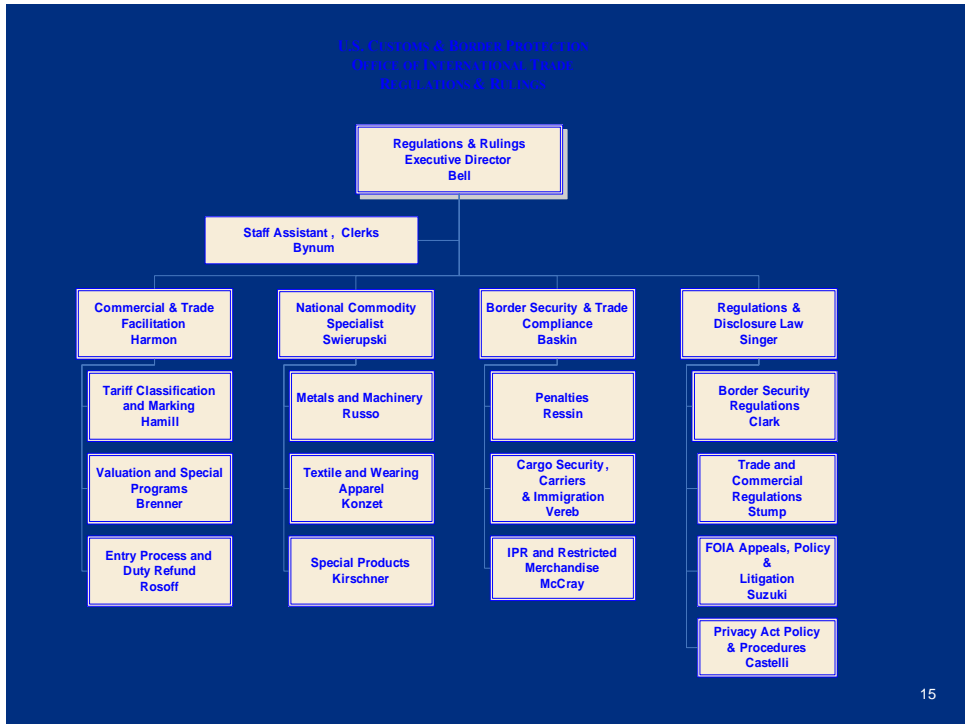
Valuation Special Programs Branch

- Dedicated office
- Legal focus
- Besides VAR, also issues other administrative decisions

Staffing

- 1 branch chief
- 1 attorney reviewer
- 7 staff attorneys

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Our set up

- Field support from **Regulatory Audit Division**

- Forensic accountants
- Auditors
- Has presence in ports

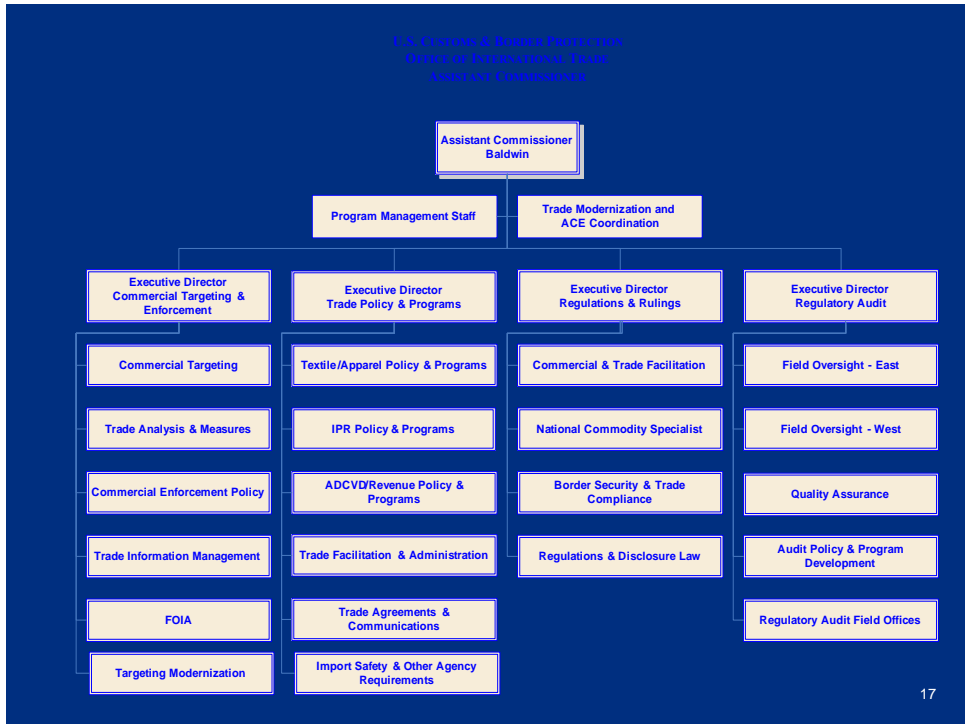


- Auditors help us with

- Documentation sufficiency
- Complex accounting issues: transfer pricing, assists



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Our set up

- **Training**
 - New staff attends **3-week intensive value course** together with the auditors

- **Resources**
 - Value handbooks
 - Informed compliance publications
 - Valuation Encyclopedia
 - Customs library

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Securing America's Borders

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- Priority Trade Issues
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see also:

- on **cbp.gov**:
 - Trade Publications Publications
 - Customs Rulings Online Search System (CROSS)
- on the web:
 - Harmonized Tariff Schedule
 - Harmonized Tariff Schedule (by chapter)
 - Immigration & Naturalization Act

▶ **Ruling Requests**
 ▶ **CBP Bulletins and Decisions**
 The Customs bulletins are weekly compilation of decisions, rulings, regulations, notices, and abstracts concerning customs and related matters of the U.S. Customs and Border Protection, U.S. Court of Appeals for the Federal Circuit and U.S. Court of International Trade.
 ▶ **Informed Compliance Publications**
 CBP has a number of Informed Compliance publications (ICPs) in the "What Every Member of the Trade Community Should Know About: ..." series. As of the date of this posting, the subjects listed are available for reading or downloading. The first date shown is the original publication date. The subsequent dates, if any, show the revisions. **Please note:** The "Additional Information" sections in some of the older ICPs were correct at the time of publication, but may no longer be current.
 ▶ **Directives and Handbooks**
 ▶ **Summary of Laws Enforced by CBP**
 The following compendium of laws enforced by CBP is provided for information only, and is not intended to imply any limitation of the enforcement powers of CBP.
 ▶ **Recent Federal Register Notices**

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Our set up

■ Systems

➤ Fairly **low-tech** set up

- Networked desktops
- Windows / MS Office
- Case timekeeping module
- Rulings publication database (CROSS, described later)



- Overview
- U.S. Implementation
- Logistics
- **Process**
- Conclusion

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Obtaining a Ruling from CBP

- **Who?**
 - 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
- **What/When?**
 - Request must pertain to prospective customs transactions

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Obtaining a Ruling from CBP

■ How?

Written request may be sent directly to Headquarters:

Director, Commercial and Trade Facilitation Division
Office of Trade, Regulations and Rulings
U.S. Customs & Border Protection
1300 Pennsylvania Avenue, N.W.
Washington DC 20229

■ Cost?

Rulings are provided free of charge

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Required Information

“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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Required Information

“A complete statement of all relevant facts relating to the transaction” (cont’d)

- Whether there are **issues** concerning the commodity for which a ruling is sought **pending** before any Customs offices or ports of entry or before any court.
- 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”

Applying for a Valuation Ruling

- 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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What do VARs address?

- 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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Components of a Ruling Letter

- Facts
- Issue
- Law and Analysis
- Holding

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HQ H019073

November 2, 2007

OT:RR:CTF:VS H019073 GG

CATEGORY: Valuation

Mr. Michael J. Theodore
Livingston Consulting
300 Meridian Corporate Park
3636 – 23 Street NE
Calgary, Alberta
Canada T2E 8Z5

RE: Appraisement of contaminated soil; fallback method.

Dear Mr. Theodore:

This is in response to your ruling request, dated September 13, 2007, made on behalf of your client, US Ecology Idaho, Inc. ("US Ecology"). This letter addresses the valuation aspects of your ruling request.

FACTS:

Soil contaminated with low concentrations of depleted uranium is being imported from Kuwait for disposal at a waste site in Idaho. The proposed disposal will, reportedly, satisfy all Federal and State requirements. The soil has not been sold and has no commercial value. US Ecology is the operator of the disposal site and will be the importer of record.

US Ecology, in seeking guidance on the value to declare, suggests that Customs precedent would support an appraisement under the fallback valuation method, using the disposal fee.

ISSUE:

What is the correct method of appraising the contaminated soil?

LAW AND ANALYSIS:

Merchandise imported into the United States is appraised in accordance with section 402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. § 1401a; TAA). The primary method of appraisement is transaction value, defined as "the price actually paid or payable for the merchandise when sold for

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exportation to the United States" plus the value of certain statutorily enumerated additions thereto. 19 U.S.C. § 1401a(b)(1).

When imported merchandise cannot be appraised on the basis of transaction value, it is to be appraised in accordance with the remaining methods of valuation, applied in sequential order. The alternative bases of appraisement, in order of precedence, are: the transaction value of identical merchandise; the transaction value of similar merchandise; deductive value; and computed value. If the value of imported merchandise cannot be determined under these methods, it is to be determined in accordance with section 402(f) of the TAA, known as the "fallback method." 19 U.S.C. § 1401a(a)(1).

In the instant case, the imported waste is not the subject of a sale and therefore cannot be appraised under the transaction value method set forth in section 402(b) of the TAA. Similarly, the methods of appraisement set forth in sections 402(c)-(e) of the TAA are inapplicable in the present circumstances. Accordingly, the imported merchandise must be appraised under the fallback method provided for under section 402(f) of the TAA.

Section 402(f) of the TAA provides that imported merchandise is to be appraised on the basis of a method derived from one of the methods set forth in sections 402(b)-(e), such methods reasonably adjusted to the extent necessary to arrive at a value. However, there are certain prohibited bases of appraisement under section 402(f), including the selling price of merchandise produced in the United States, minimum values and arbitrary or fictitious values. 19 U.S.C. § 1401a(f)(2).

Nevertheless, under section 500 of the Tariff Act of 1930, as amended, which sets forth Customs' general appraisement authority, the appraising officer may:

Fix the final appraisement of merchandise by ascertaining or estimating the value thereof, under section 1401a of this title, by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, other document to the contrary notwithstanding....

19 U.S.C. § 1500(a) (emphasis added).

In this regard, the Statement of Administrative Action (SAA), which forms part of the legislative history of the TAA, provides in pertinent part:

Section 500 allows Customs to consider the best evidence available in appraising merchandise... [I] authorize (sic) the appraising officer to weigh the nature of the evidence before him in appraising the imported merchandise. This could be the invoice, the contract between the parties, or even the recordkeeping of either of the parties to the contract.

Statement of Administrative Action, H.R. Doc. No. 153, 96 Cong., 1st Sess., pt 2, reprinted in, Department of the Treasury, Customs Valuation under the Trade

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Agreements Act of 1979 (October 1981), at 67. Accordingly, if the value of imported merchandise cannot be determined on the basis of a method derived from sections 402(b)-(c), it is our position that the value of the imported waste material that is the subject of the instant protest may be determined under the fallback method provided for in section 402(f) of the TAA, using all reasonable ways and means, so long as the method is not specifically precluded under section 402(f)(2)(D). US Ecology proposes to declare a value under the fallback method of valuation that is based on the disposal fee it receives. This same approach was followed in Headquarters Ruling Letters (HRL) 545017, dated August 19, 1994, HRL 547061, dated March 19, 1999, and HRL 547147, dated March 23, 1999, with regard to the importation and disposal of waste materials. Accordingly, we agree with US Ecology's proposal to appraise the contaminated soil under the fallback valuation method using the disposal fee.

HOLDING:

The imported contaminated soil shall be appraised under the fallback method using the disposal fee.

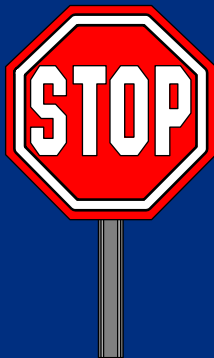
A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs official handling the transaction.

Sincerely,

Monika R. Brenner
Chief,
Valuation and Special Programs Branch

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When is a VAR not issued?



- Request does not meet the complete statement of all relevant facts relating to the transaction
- We become aware of pending port or court proceedings
- Request is hypothetical
- Incorrect information is intentionally provided to Customs

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Issuance and Application

- CBP will endeavor to issue the ruling within 90 days of receiving the request.
- Response conveyed in writing.
- Importer attaches a copy of the ruling to his entry documents (or makes reference if filing electronically)
- 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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Scope of 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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U.S.-Peru TPA:

ARTICLE 5.10: ADVANCE RULINGS

5. Subject to any **confidentiality** requirements in its laws, each Party shall make its advance rulings **publicly available**.

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Publication of Rulings

- Rulings are published in 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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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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The screenshot displays the U.S. Customs and Border Protection website. At the top, the logo and name "U.S. Customs and Border Protection" are visible, along with the tagline "Securing America's Borders" and a search bar. Below the header is a navigation menu with links for "About CBP", "Newsroom", "Border Security", "Trade", "Travel", and "Careers". The main content area features a "CBP NEWS:" section with a list of links: "Alerts", "Tip Lines", "Quicklinks", "Questions", "Forms", and "En Español". The primary news article is titled "CBP and ICE Repatriate Ancient Fossils to China" and includes a photograph of several fossil skulls. Below this are three smaller news items: "Brownsville CBP Seizes Cocaine Found in Driver's Bag of Chips" (dated 09/13/2009), "CBP Seizes More than \$1,000,000 in Undeclared Currency" (dated 09/14/2009), and "CBP Seizes Birds, Bugs, Plants at Michigan Border" (dated 09/18/2009). On the left side, there are additional links for "Trusted Traveler Programs" and "CBP History". The page number "40" is located in the bottom right corner.

The screenshot shows the CBP.gov website with the following elements:

- Header:** CBP.gov logo with the tagline "Securing America's Borders". A search bar with "GO" button is on the right. Navigation tabs include "About CBP", "Newsroom", "Border Security", "Trade", "Travel", and "Careers".
- Trade Section:**
 - Trade:** A sub-section header.
 - Automated Systems and Operational Support**
 - Basic Importing and Exporting**
 - Cargo Security**
 - CBP Legal Decisions and Publications**
 - Priority Trade Issues**
 - Quicklinks**
 - Trade Outreach**
 - Trade Programs**
- Main Content:**
 - Trade:** Text stating "U.S. Customs and Border Protection will facilitate about \$2 trillion in legitimate trade this year while enforcing U.S. trade laws that protect the economy, the health and the safety of the American people. We accomplish this through close partnerships with the trade community, other government agencies and foreign governments." An RSS icon is present.
 - Trade News:** "Significant Trade Activities" with a large image of a film reel and a blue ribbon graphic.
 - Resources:**
 - [Locate a Port Of Entry - Air, Land, or Sea](#)
 - [Forms](#)
 - [Trade Support Network](#)
 - [Report Trade Allegations \(e-Allegations\)](#)
 - References:**
 - [Trade Publications](#)
 - [Federal Register Notices 2009 - GPO Access](#)
 - [CROSS](#)
 - [2009 HTS by Chapter](#)
- Footer:** "Report Suspicious Activity to 1-800-BE-ALERT" and "What's New in Trade".

The screenshot shows the CROSS Customs Rulings Online Search System interface within an Internet Explorer browser window. The browser title is "CROSS Customs Rulings Online Search System - Internet Explorer provided by Customs & Border Protection v 1.3". The address bar shows "http://rulings.cbp.gov/".

The website header includes the U.S. Customs and Border Protection logo and the tagline "Securing America's Borders". The main navigation bar features the "CROSS" logo, "CUSTOMS RULINGS ONLINE SEARCH SYSTEM", a search bar with "GO" button, and "HELP | ABOUT" links.

The interface includes a filter section with "Collection" options: ALL, HQ, NY, and NAFTA Filter OFF. It also shows "10 results per page" and "View" options (list, grid, print).

The main content area contains the following sections:

- About the Customs Rulings Online Search System (CROSS)**: A paragraph explaining that CROSS is a searchable database of CBP rulings that can be retrieved based on simple or complex search characteristics using keywords and Boolean operators. It also mentions 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**: A paragraph stating "CROSS was last updated 9/15/2009 with 138 rulings, bringing the total number of searchable rulings to 158162. The most recent ruling is dated 9/9/2009."
- Related Trade Information**:
 - [Downloadable rulings](#) - downloadable rulings spanning 1990 to present.
 - [Trade related links](#) - Includes links to the Harmonized Tariff schedule, Customs Bulletins, Informed Compliance, Code of Federal Regulations, and more...

Online Search System - Internet Explorer provided by Customs & Border Protection v 1.3

CROSS Customs Rulings Online Search System - Internet Explorer provided by Customs & Border Protection v 1.3

File Edit View Favorites Tools Help Links

CBPnet CBP.gov

CROSS CUSTOMS RULINGS ONLINE SEARCH SYSTEM SEARCH valuation GO HELP ABOUT

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

Results [1-10] of 1233 records | Search took 0.06 seconds | 1 users

Date	Rank	Ruling Category Tariff No	Ruling Reference	Related
7/31/2009	4.5%	W HQ H047360 Valuation	Dutability of royalty payments; buying agency fees; 19 U.S.C. § 1401a(b)(1)	References 548875, H034062
7/22/2009	0.9%	W HQ H033395 Classification	Eligibility of ball point pens for preferential tariff treatment under the DR-CAFTA, country of origin marking	References 735169
6/29/2009	1.2%	W HQ H017110 DUTIES	Protest and AFR 1704-07-100078; Liquidation; anti-fragrance bearings; focused assessment.	

HQ H047360 Print

HQ H047360
July 31, 2009
VAL OT:RR:CTF-VS H047360 FP
CATEGORY: Valuation
George R. Tuttle, II One Embarcadero Center Suite 730 San Francisco, CA 94111-4044
RE: Dutability of royalty payments; buying agency fees; 19 U.S.C. § 1401a(b)(1)
Dear Mr. Tuttle:

This is in response to your letter requesting a ruling on behalf of The Sports Authority Corporate Services, Inc. ("TSA") as to the dutability of certain payments for the use of a licensed trademark, and for buying agency services.

FACTS:

TSA, of Denver, Colorado, is a U.S. importer and retailer of fitness, outdoor, and sporting goods, including equipment, apparel and footwear.

[Licensor], owns [XYZ] trademark in the U.S. It has licensed the [XYZ] brand for certain footwear product lines to [Licensee], of St. Louis, Missouri.

Local intranet 43

CROSS Customs Rulings Online Search System - Internet Explorer provided by Customs & Border Protection v 1.3

File Edit View Favorites Tools Help Links

CBPnet CBP.gov

CROSS CUSTOMS RULINGS ONLINE SEARCH SYSTEM SEARCH deductive value GO HELP ABOUT

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

Results [1-10] of 64 records | Search took 0.06 seconds | 1 users

Date	Rank	Ruling Category Tariff No	Ruling Reference	Related
7/3/2008	21.1%	W HQ H020270 Valuation	Valuation; "superdeductive" method in 19 U.S.C. 1401a (d)(2)(A)(iii); "fallback" provision in 19 USC 1401a(f); damaged transmission cores imported for use in the production of rebuilt automobile transmissions.	References 548211, 547877, 563470
3/24/2008	4.4%	W HQ W563468 Valuation	Request for Internal Advice; Sale for Exportation to the United States	References 547197, 548602
3/21/2008	2.7%	W HQ H019722 Valuation	Consideration of the proper method of appraisal for products re-imported to be entered into	References 548211, 547877, 548698

HQ H020270 Print

HQ H020270
July 3, 2008
VAL OT:RR:CTF-VS H020270 FP
CATEGORY: Valuation
Laurie Peach National Customs Manager American Honda Motor Company, Inc.
1919 Torrance Boulevard Torrance, California 90501-2746
RE: Valuation; "superdeductive" method in 19 U.S.C. 1401a (d)(2)(A)(iii); "fallback" provision in 19 USC 1401a (f); damaged transmission cores imported for use in the production of rebuilt automobile transmissions.

Dear Ms. Peach:

This is in response to your letter requesting a binding ruling on behalf of American Honda Motor Co., Inc. ("American Honda") as to the proper method of appraisal pursuant to 19 U.S.C. 1401a for imported transmission cores used in the production of rebuilt transmissions in the U.S. FACTS:

American Honda, of Torrance, California, is an importer and manufacturer of automotive parts, equipment and vehicles under the Honda and Acura marques. According to its submission, American Honda imports damaged transmission cores that have been recovered from its

Local intranet 44

CROSS Customs Rulings Online Search System - Internet Explorer provided by Customs & Border Protection v 1.3

U.S. Customs and Border Protection
Securing America's Borders
DHS.gov

CROSS CUSTOMS RULINGS ONLINE SEARCH SYSTEM
SEARCH deductive value aggregate quantity

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

Results [1-10] of 54 records | Search took 0.08 seconds | 260 users

Date	Rank	Ruling Category Tariff No	Ruling Reference	Related
8/10/1992	12.8%	W HQ 544784 Valuation	Proper Appraisalment for Merchandise Under Deductive Value;	
12/28/2006	2.9%	W HQ W583483 Valuation	Internal Advice: consideration of the proper method of appraisalment for imported fruit; deductive value; transaction value for identical or similar merchandise	References 545477, 545032 546602
5/25/2007	2.4%	W HQ H007667 Valuation	Valuation of melons; deductive value; deductions under 19 CFR 152.105(d)	References 546120, 547826
2/6/2004	2.2%	W HQ W548391 Valuation	Internal Advice; formulas; sale for export; transaction value inapplicable; deductive value	References 542701, 546217 546602
8/20/1990	1.6%	W HQ 544469 Valuation	Decision on Application for Further Review of Protest No. 3001-6-000149	References 544361
7/22/2008	1.6%	W HQ H019749	Deductive Value; Profits and General Expenses; §152.105(e)	

Done Internet

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CROSS Customs Rulings Online Search System - Internet Explorer provided by Customs & Border Protection v 1.3

CBPnet
CBP.gov

CROSS CUSTOMS RULINGS ONLINE SEARCH SYSTEM
SEARCH transaction value identical merchandise

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

Results [1-10] of 190 records | Search took 0.13 seconds | 1 users

Date	Rank	Ruling Category Tariff No	Ruling Reference	Related
12/1/2008	0.8%	W HQ H023813 Valuation	Valuation, transaction value method in 19 U.S.C. 1401a(b); transaction value of identical merchandise in 19 U.S.C. § 1401a(c); aluminum ingot and other value-added cast products made therefrom.	References 544346, 545242
7/3/2008	2.5%	W HQ H020270 Valuation	Valuation, "superdeductive" method in 19 U.S.C. 1401a (d)(2)(A)(iii); "fallback" provision in 19 USC 1401a(f); damaged transmission cores imported for use in the production of rebuilt automobile	References 546211, 547877 563470

H023813 Print

HQ H023813
December 1, 2008
VAL OT:RR:CTF:VS H023813 FP
CATEGORY: Valuation
Rick Van Arnam Barnes, Richardson & Colburn 475 Park Avenue South New York, New York 10016
RE: Valuation, transaction value method in 19 U.S.C. 1401a(b); transaction value of identical merchandise in 19 U.S.C. § 1401a(c); aluminum ingot and other value-added cast products made therefrom.

Dear Mr. Van Arnam:

This is in response to your letter requesting a ruling on behalf of Rio Tinto Alcan ("Rio Tinto") as to the proper method of appraisalment pursuant to 19 U.S.C. 1401a for aluminum imported into the U.S. under a proposed pricing formula.

FACTS:

Rio Tinto Alcan of Montreal, Quebec, Canada, is an exporter of aluminum ingot and other aluminum-derived products. According to its submission, Rio Tinto's prices for aluminum ingots sold into the U.S. are constructed using as a basis the price of aluminum on the London Metal Exchange ("LME") as adjusted for a regional premium. This price is known in the industry as the "Mid West

Local intranet

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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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Review & Appeal

If requester is not satisfied with the holding in one of our rulings, s/he has access to:

- (a) administrative **reconsideration** of the decision; and
- (b) subsequent **judicial review** of the determination.

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Review & Appeal

If requester is not satisfied with the holding in one of our rulings, s/he has access to:

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- (b) subsequent **judicial review** of the determination.

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- Overview
- U.S. Implementation
- Logistics
- Process
- **Conclusion**

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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: September 29

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

- Power Point presentations for the workshop
- Work documents from expert member economies related to requested legal framework, policies and strategies developed in the implementation stage, logistic aspects for the implementation of Valuation Advance Rulings and the process design.
- Comparative matrix on implementation process by each expert member economy
- Participant List

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

- **Requested legal framework, policies and strategies developed in the implementation stage:** Information related to the rules established in Trade Agreements asking for their application, domestic rules and governmental policies, which established the application of rules, required procedures and processes for an effective implementation and functioning of the Valuation Advance Rulings, strategies carried out in the implementation, participation of private sector in the implementation stage, public relations and coordination between business and foreign trade users regarding implementation of Valuation Advance Rulings and publication and dissemination before the entry in force of this mechanism.
- **Logistic aspects for the implementation of Valuation Advance Rulings:** Information related to the required resources for implementation, need and support for a creation of an area within the organization in charge of issuing the Valuation Advance Rulings, organizational structure, requested personnel, personnel functions, computer systems developed in the implementation stage and required furnishings and equipments.
- **Implementation:** information related to the required time for implementation, training for Customs personnel, implementation impact on external users (importers, Customs agency, associations), implementation impact on Customs clearance, and drawbacks arose from process implementation and how overcome them.
- **Process design:** Information related to the operational process design, flowchart of process, registry design and tracking of issued applications and Rulings and development of computer system.

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' implementation process.

Groups were comprised as follows:

GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
Pierre Trudel (CANADA)	Shuichi Komure (JAPAN)	SEO Young-ju (KOREA)	Fernando Peña (UNITED STATES)	Wayne Baldwin (AUSTRALIA)
Hattaya Tpyavat (THAILAND)	Sofyan Helmi (INDONESIA)	Ngo Quynh Chi (VIET NAM)	Kavier Kambiri (PAPUA NEW GUINEA)	Xu Lei (CHINA)
Daniil Turlanov (RUSSIA)	Luis Muñoz Santander (CHILE)	Mohamed Jaafar (MALAYSIA)	Miroslava Perez (MEXICO)	Luis Arroyo (SUNAT-PERU)
Rita Caballero (SUNAT-PERU)	Ruben Cuba (SUNAT-PERU)	Jeymerd Bello (SUNAT-PERU)	Carmela Reynalte (SUNAT-PERU)	Claudia Maiz (SUNAT-PERU)
Ana María Rojas (SUNAT-PERU)	José Muñoz (SUNAT-PERU)	Roberto Ruiz (SUNAT-PERU)	Jaime Huamaní (SUNAT-PERU)	Nancy Olivera (SUNAT-PERU)
Rene León Ybarcena (SUNAT-PERU)	Nathalie Corzo (SUNAT-PERU)	Gisella Vega (SUNAT-PERU)	Doris Bautista (SUNAT-PERU)	Amelia Vásquez (SUNAT-PERU)
Jyns Ordoñez (SUNAT-PERU)	Socorro Macedo (SUNAT-PERU)	Aida Dianderas (SUNAT-PERU)	Carlos Jara (SUNAT-PERU)	Edda Lombardi (SUNAT-PERU)
				Gloria Ramirez (MINCETUR-PERU)

Part IV.
Participants

List of Participants

- 1.- Name : Mr Luis Antonio Muñoz Santander
Position: Planta Directivo, Gdo. 7, Subdepartamento de Valoración
Organisation: Customs National Service - Chile
Phone: +56 32 2200553
Fax: +56 32 2200845
Email: lmunozs@aduana.cl
- 2.- Name : Ms Xu Lei
Position: Director of Valuation Division (Shenzhen) of Customs General Administration of P.R.C.
Organisation: China Customs
Phone: 86-755 84398050
- 3.- Name : Ms Hattaya Tpyavat
Position: Assistance Director to the Customs Procedures and Valuation Bureau
Organisation: Customs Standard Procedures And Valuation Bureau-Thailand
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- 4.- Name : Mr Daniil Turlanov
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Organisation: Ministry of Economic Development of the Russian Federation
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- 5.- Name : Ms Ngo Quynh Chi
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Organisation: General Department of Viet Nam Customs
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Fax: 84-4-3.8.723.856
Email: pwife74@yahoo.com.vn
- 6.- Name : Mr Kavier Kambiri
Position: Post Clearance Auditor
Organisation: Papua New Guinea Internal Revenue Comission-Customs
Phone: (675) 322 6903
Fax: (675) 321 4002
- 7.- Name : Mr Sofyan Helmi
Position: Head of Customs Valuation Section
Organisation: Directorate of Customs and Excise- Indonesia
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Fax: 62 21 4891845
Email: helmi2006@yahoo.com
- 8.- Name : Mr Mohamed Jaafar
Position: Deputy Director of Customs, Technical Services Division Hq
Organisation: Royal Malaysian Customs
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- 9.- Name : Ms Miroslava Perez Lopez
Position: Deputy Director for Negotiations on Rules of Origin and Customs Procedures

- Organisation: Ministry of Economy of Mexico
 Phone: (5255) 57-29-91-00 Ext. 15031
 Email: mperezl@economia.gob.mx
- 10.- Name : Ms Gloria Ramirez
 Position: Trade Officer
 Organisation: Ministry of Foreign Trade and Tourism- Peru
 Phone: +511 5136100 ext. 8036
 Fax: +511 5136100 ext. 8002
 Email: gramirez@mincetur.gob.pe
- 11.- Name : Mr Carlos Ramirez
 Position: National Superintendency of Tax Administration (SUNAT)-Peru
 Organisation: Ministry of Finance- Peru
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 Email: camireza@sunat.gob.pe
- 12.- Name : Mr Jeymerd Bello
 Position: Head of Valuation Division
 Organisation: National Superintendency of Tax Administration (SUNAT)-Peru
 Phone: (511) 219-5150 ext. 20056
 Email: jbello@sunat.gob.pe
- 13.- Name : Ms Nancy Olivera
 Position: Head of the International Agreements Division
 Organisation: National Superintendency of Tax Administration (SUNAT)-Peru
 Phone: (511) 219-5150 ext. 20058
 Email: nolivera@sunat.gob.pe
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Part V.

Workshop Outcomes

Workshop Outcomes

As a result of the Workshop on Implementation of Valuation Advance Rulings in APEC Member Economies, information from Australia, Canada, Japan, Korea, and United States was shared on their experience in the implementation of Valuation Advance Rulings, which enabled to produce the Comparative Matrix in the implementation 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 implementation stage in Valuation Advance Rulings followed by each experienced member Economy. Such matrix is included in this Part V of this report.

The workshop has also enabled to learn in detail experiences on this mechanism on the following issues: In requested legal framework, policies and strategies developed in the implementation stage, it was collected information related to rules established in Trade Agreements asking for their application, domestic rules and governmental policies, which established the application of rules, required procedures and processes for an effective implementation and functioning of the Valuation Advance Rulings, strategies carried out in the implementation, participation of private sector in the implementation stage, public relations and coordination between business and foreign trade users regarding implementation of Valuation Advance Rulings and publication and dissemination before the entry in force of this mechanism.

Regarding the logistic aspects for the implementation of Valuation Advance Rulings, we were able to learn information related to required resources for implementation, need and support for a creation of an area within the organization in charge of issuing the Valuation Advance Rulings, organizational structure, requested personnel, personnel functions, computer systems developed in the implementation stage and required furnishings and equipments.

Likewise, we collected experiences on the operational process regarding information related to required time for implementation, training for Customs personnel, implementation impact on external users, implementation impact on Customs clearance, drawbacks arose from process implementation and how overcome them, operational process design, registry design and tracking of issued applications and Rulings and development of computer system.

Through discussions and opinion exchange held by work groups, information on best practices were drawn corresponding to each phase of the implementation 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 implementation 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 this 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 on implementation of Valuation Advance Rulings. 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 implementation process of valuation advance rulings, which compiles the process followed by Australia; Canada; Japan; Korea; 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 implementation by the abovementioned member economies.

COMPARATIVE MATRIX ON IMPLEMENTATION PROCESS OF VALUATION ADVANCE RULINGS

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
1	RULES ESTABLISHED IN FREE TRADE AGREEMENTS	There are no definitive rules on establishment of valuation advance rulings in Free Trade Agreement.	The challenge we all face is that "Free Trade" is never free. And while governments sign Free Trade Agreement our clients often jump to the conclusion that everything is duty free, and what does it matter if the value is not correct. And while we can see the logic behind this thought, it simply is not so. Duty free or not, our respective countries will always want to know how much local currency leaves our shores to purchase & import what commodities.	There are no definitive rules on establishment of valuation advance rulings in Free Trade Agreement.		Although the Advanced Rulings scheme in the U.S. precedes most of our trade agreements, the U.S. encourages trading partners to adopt similar schemes by incorporating them into the standard language for negotiation of free trade agreements.
2	DOMESTIC RULES AND GOVERNMENTAL POLICIES WHICH ESTABLISH THE APPLICATION OF RULES	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. Australia provides advance rulings as a service for the convenience and guidance of clients, without the requirement for legal provisions. Rulings made by Customs and Border Protection are binding on Customs and Border Protection under government administrative arrangements which require that all correspondence provided by a Government Department is binding on that Department.	To date we have over 40 such policy instruments. They cover every method of valuation and address many of the technical difficulties associated with the interpretation of the CVA. By way of example, they will explain what conditions must be met before using the Transaction Value Method. Another will explain what a Sale is for Export and which one would be the relevant one where more than one is identified. These policies are referred to as our D-memos and the D13 series deals exclusively with Customs Valuation. They are available at the CBSA web site and if you are not familiar with them I urge you to visit our site and have a look at them. [www.cbsa-asfc.gc.ca] In Canada's view, the development of such policies is critical to our ability to administer and deliver a consistent, transparent, valuation program.	The Customs Law stipulates that Customs shall endeavor to make an appropriate response to an enquiry made by an applicant regarding the information necessary for duty declarations of the goods to be imported, such as tariff classification and customs valuation. 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	Article 37 of the Korea Customs Act (Valuation Advance Ruling) If a person who is liable to declare the payment of duty under Article 38 (1)(Declaration and Payment), has any doubt about determination of the customs value, he may request the Commissioner of the Korea Customs Service to examine it in advance before the declaration of value.	The advanced rulings program in the U.S. was established as an administrative or regulatory arrangement. However, it makes no difference whether a program is established pursuant to a legislative or administrative action.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
3	REQUIRED PROCEDURES AND PROCESSES FOR AN EFFECTIVE IMPLEMENTATION AND FUNCTIONING OF THE VALUATION ADVANCE RULINGS	<p>When Customs and Border Protection setting up the valuation advance ruling system considered Ruling processing procedures, which cover aspects such as: Time frames for the issue of rulings (30 days), for obtaining extra information (28 days) and for the validity of rulings (5 years); the requirement that the ruling will only be provided after receipt of sufficient and detailed facts and information; rejection of application provisions, such as how and when to reject an application; treatment of in-transit goods; guidelines for staff regarding how to process an application; communication with the applicant; a system was developed to record rulings and to disseminate the decision nationally (important for national consistency and if a client seeks a review or appeal of the ruling); method of ensuring that rulings are applying national consistency; review and appeal mechanisms, etc.</p>	<p>The policies are an expression of transparency but are also an excellent tool in support of a consistent and predictable application of the CVA. In the 8 regions we have over 300 trade officers who conduct verification, answer telephone enquiries, write national customs rulings, or conduct public outreach activities. While we offer training and support for any questions they may have, having a published explanation such as those contained in or policies can greatly improve the consistency of the decisions taken and the advice given by way of advance rulings. It also encourages importers to correctly determine their value for duty. We involve two important stakeholders in the development of these policies: the Canadian Bar Association – the lawyers; and the Canadian Institute of Chartered Accountants. Each brings their own perspective and views to the table and twice a year we discuss with them proposed changes and updates and new proposed policies.</p>	<p>The administrative guidelines include elements on required procedures as follows: Applicants, Scope of valuation advance rulings, Location where applications should be submitted, Application form, Requested supporting documents, Case where valuation advance rulings cannot be issued, Amendment and revocation, Review process, Terms between the application presentation and the ruling issuance, Use and application of valuation advance rulings, Terms of validity, Publication.</p>	<ol style="list-style-type: none"> 1. Application (Filling out application form) 2. Declaration of provisional value (Filing import declaration); 3. Advance Ruling (Document Review - On-site examination) 4. Notification of results (Issuing Advance Ruling certificate) and 5. Value declaration (Filing price declaration applying the determined valuation method). 	<p>In the U.S., Part 177 of Title 19 of the Code of Federal Regulations (19 CFR 177) established procedures for all advanced rulings, which cover customs valuation, tariff classification, country of origin determinations, and carrier rulings. In that sense, the following elements are key to a successful implementation of an advanced rulings program: 1) Strong commitment by the customs administration management team 2) Active involvement of stakeholders: importers, brokers, agents, carriers 3) A robust instrument (legislation, regulation or administrative directive) that delineates rulings issuance procedures; 4) Public knowledge that the program is available; 5) Training/expertise of staff; 6) Rulings must be binding</p>

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
4	STRATEGIES CARRIED OUT IN THE IMPLEMENTATION	To ensure effective implementation the scheme requires open support and 'championing' from Management. The scheme will be a change to way staff and clients presently operate. Most people do not readily accept change, but if Management are giving full support to the scheme then staff and clients will be more willing to accept the scheme.	The first issue considered was that the issuance of an Advance Rulings Program would be best if it were a Centralized Program. Having a critical mass of experts to issue advance rulings fosters officer knowledge, development and, can create a work environment where knowledge and experience are passed on from more experienced officers to less experienced officers. It promotes excellence and consistency of application. As a customs administration, you have an obligation to apply the law consistently among your importers. After all, you expect importers to comply with the law, and in the same way, and in return for their compliance importers expect your administration to be consistent in your application of the law (customs valuation program). Fairness and uniformity are important characteristics of any valuation program. Having one responsible group to issue advance rulings simply makes sense as it facilitates learning and promotes consistency of application.	Japan Customs followed the procedure of classification advance ruling and advance rulings of National Tax Agency.		As with any new regulatory initiative in the U.S., Customs published in the Federal Register (official government bulletin) a proposed rule to establish an advance rulings program. Thereby notice was given to the public about the administration's intention.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
5	PARTICIPATION OF PRIVATE SECTOR IN THE IMPLEMENTATION STAGE	The first task to implement the Australian advance ruling scheme was to set up a working group to examine possible methods of implementation. The working group comprised representatives from both Customs and customs clients (customs brokers and consultants).	We also understand that in order to have good risk management we need information. The more information we have the better we can make decisions. And when one importer, in one business sector, asks us how he should value his/her goods and advises that the buys through a commissioned agent, or that he pays a royalty, or has provided an assist, it is likely and probable that others - his competitors who import the same or similar goods - also buy under similar circumstances and if determining the value was not apparent to one importer, it is likely not to be apparent to another. So Advance Rulings are important. They are a big step in changing our relationship with our clients / importers and provide us with a better understanding of our clients and the issues and risks we need to address. Advance Rulings benefit both Customs and Importers so it might be best not to place any fee barriers to what is an important service. With that said – it is of course up to your administration to decide.	Private sector did not join in the discussion for the introduction of the valuation advance rulings system. However, the system has been improved/updated, taking into account requests from the private sector.	With the approval of the applicant of advance ruling, the experts in the neutral positions (in the fields of customs valuation, laws, corporate accounting, international tax, etc.) can be selected to give their review opinions on the applied valuation methods to the Korea Customs Service for reference. In this case, the customs can charge the applicant part of the expenses required for the advice.	The notice about a proposed rule to establish an advance rulings program solicited comments from the public about the desirability of establishing the program. In addition, Customs held 23 public meetings with different stakeholder participants to seek input from those to be affected by the new procedures.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
6	PUBLIC RELATIONS AND COORDINATION BETWEEN BUSINESS AND FOREIGN TRADE USERS	The external representatives on the working group provided valuable information and assistance subjects such as: timeframes for issuing the ruling; ability of clients to obtain the information required by Customs to enable the ruling to be issued; time frame for life of ruling; etc	Advance rulings are important. They play a significant role in clarifying a customs / trade environment which is anything but simple. While the trading system is rules based, the rules are not always apparent. It is our role as Customs Administrations to clarify what the rules means and how they should apply to our importers. Our importers are an important part of each of our countries' economy and while our relationship with importers can sometimes be strained, much more can be achieved by working together in collaboration. Advance Rulings are an important part of that collaboration that is critical to the new relationship we desire without importers / clients.	Japan Customs did not ask for public comment on valuation advance rulings before implementation. However, Japan Customs conducts surveys to receive comments from users.		Improvements to the advanced rulings program throughout the years have been proposed and discussed at the Customs Operations Advisory Committee (COAC), which is an advisory committee, created pursuant to the Federal Advisory Committees Act, composed of customs officials and representatives from various organizations and companies in the trade community. It provides a forum for the private sector to advise Customs on matters relating to its commercial operations.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
7	PUBLICATION AND DISSEMINATION BEFORE THE ENTRY IN FORCE OF THIS MECHANISM	<p>In 1988 when Australia first implemented the VAR system Customs did not have a web page. Clients were notified of the scheme by two means: 1) An 'Australian Customs Notice' which is a mechanism used by Australia to notify clients of important customs news; and 2) By news from within own industry representative bodies that were part of the working group. In 1988, Australia published Customs Manuals (now replaced by Practice Statements and instructions and guidelines). The manual on Customs Valuation included a chapter on the advance ruling scheme. When Australia created an internet webpage, information on Customs valuation was included. The Customs Manuals were also made available on the webpage.</p>	<p>Article 12 of the Customs Valuation Agreement requires that: Laws, regulations, judicial decisions and administrative rulings of general application giving effect to this Agreement shall be published in conformity with Article X of GATT 1994 by the country of importation concerned. While for the purposes of Article 12 it might be argued that an Advance Ruling is not an administrative ruling of general application, but rather of specific application to a particular importer, the point here is that it is best to publish administrative rulings as they can help others understand how you will apply the provisions of the CVA – it is a good thing to publish, to be transparent – it builds trust - it builds relationships. Being open with what you say is the essence of being transparent. And is it critical to an improved relationship with your importers.</p>	<p>The administrative guidelines introducing the procedures for written valuation advance rulings were publicly released before the implementation. It 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.</p>		<p>Besides ample stakeholder participation in the stages prior to entry into force, a notice about details of the program's implementation was published in the Federal Register and the Customs Bulletin. The Customs Bulletin is widely read in the trade community and is considered the publication of record for customs matters. Note that the U.S. implemented this program well before the widespread use of the internet. Currently, all new regulatory initiatives are also widely broadcast over the internet and other electronic media.</p>

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
8	REQUIRED RESOURCES FOR IMPLEMENTATION		Some of us have established valuation databases to gauge the risk and compare one value against another, but unless you have confirmed through verification the validity of every value in your database as being a proper Transaction Value or a Transaction Value of Identical or Similar goods; or have verified Computed or Deductive values, then it is difficult to use the database as anything other than "nice to have" information. And, even if you were to have confirmed the values, you would still have to demonstrate to the importer that the values in your database are in fact accepted and confirmed values without breaching your confidentiality obligations under Article 10 of the CVA.	Officers in charge of Customs Valuation deal with valuation advance rulings.		
9	NEED AND SUPPORT FOR A CREATION OF AN AREA WITHIN THE ORGANIZATION IN CHARGE OF ISSUING THE VAR	The process has required an Office in charge of issuing the VAR.		Japan Customs does not have officers who devote themselves exclusively to VAR		The U.S. believes that it is optimal to have a small group of experts with expertise in valuation charged with the issuance of VARs. In our case, we have about 7 attorneys in our Headquarters Office with responsibility over VARs. They are supported by the Regulatory Audit field offices (at the ports), which are staffed by accountants. This organizational setup allows the Headquarters attorneys responsible for VARs to seek input from experts who are closer to day-to-day transactions occurring in the customs port offices. Conversely, regulatory auditors consult our attorneys on complex legal aspects related to valuation.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
10	ORGANIZATIONAL STRUCTURE	Valuation policy is set by head office (Canberra) and administered by regional offices. Valuation advance rulings are issued centrally by one region. Review and appeal of rulings is administrated by head office (Canberra).	As administrator for the valuation program, Headquarters is responsible for: policy development, identification of compliance verification targets, training, support for regional program delivery (policy and audit), defense of court cases, and international representation. Regional Offices are tasked with Program delivery, that is: providing client service (outreach programs, advance rulings & national customs rulings, processing refund claims and adjustments) and carrying out all verification activities / audits of clients. When a client is audited they may be targeted for a single program such as Valuation or can br targeted for all programs Tariff Classification, Origin and Valuation. Verifications / audits look at an entire year's activities through sampling methodology and can result in the client owing us money or us owing the client money.	09 regional customs headquarters in Japan issue VAR. National Valuation Center has been tasked with supervising the VAR process. National Valuation Center consults with the valuation section of the Customs and Tariff Bureau, Ministry of Finance, as appropriate.	In Korea Customs Service, 2 officials in the Audit Policy bureau in the headquarters are in charge of institutions of valuation advance ruling, and 5 in the Customs Valuation and Classification Institute are handling relevant work such as receipt, evaluation and approval of advance ruling.	The Valuation Branch is part of the Regulations and Rulings Directorate, the legal side of Customs' Office of International Trade (OT). OT consolidates the trade policy, program development, and compliance measurement functions of CBP into one office. The Office provides uniformity and clarity for the development of CBP's national strategy to facilitate legitimate trade and manages the design and implementation of results-driven strategic initiatives of trade compliance and enforcement.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
11	REQUESTED PERSONNEL	Staff required to issue advance rulings = 4.		All of the 09 regional customs headquarters have valuation officers who deal with VAR as a part of their responsibilities. There are 48 such officers in total. In addition, there are 6 valuation officers at the National Valuation Center, whose responsibilities include the supervision of the valuation advance rulings process.	ACVA officials need to be equipped with comprehensive knowledge and experience needed to examine transactions between related parties such as customs valuation, corporate accounting, arm's length price calculation method for internal taxes	1 branch chief, with approving responsibility, 1 technical reviewer, 7 staff attorneys
12	PERSONNEL FUNCTIONS	3 officers to issue the ruling and 1 officer to supervise and sign off on the ruling.	Our workforce is aging and much of the regional and HQ expertise has or is about to retire. One big challenge is identifying the right workforce and developing their knowledge and expertise and keeping them on strength. In Canada's opinion you need valuation experts not generalists. To issue an Advance Ruling you must be able to ask the right questions and interpret the facts and provide an answer. In many ways this is as complex a task as conducting a valuation verification as you must have knowledge of all the possibilities.	Valuation specialists at the regional Customs headquarters deal with valuation advance rulings comprehensively, i.e. accept a written request after checking an application form and accompanied supporting documents, examine the request, request additional information if necessary, and issue a ruling after consultation with the National Valuation Center as appropriate.	1) Officials from the headquarters who is in charge of institution carries out institutional revision and legal overhauling. 2) Customs valuation officials are responsible for reception of applications, pre-consultation, review of factors to be added or deducted, and customs value determination method. 3) Officials in charge of corporate audit and accounting, who are a corporate audit expert and a certified public accountant, perform confirmation of submitted documents.	All staff attorneys are responsible for drafting VARs.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
13	COMPUTER SYSTEMS DEVELOPED IN THE IMPLEMENTATION STAGE	Australia uses a computer system to record, receive and process advance rulings. The system has been developed in house by Customs and Border Protection IT section.	A computer can also help you set up a system whereby you record all Advance Rulings and have access to them, on-line. This would allow you to track the number you issue; keep a record and a reference of who you have issued one to; follow up where necessary [monitor] action; allow you to review them for consistency / accuracy. It could also allow you to make them public (Transparency) with necessary editing for confidentiality.	Currently, Japan Customs has not received an application form through the online computer system. It has also not issued valuation advance rulings through the system. However, the submission of application forms and the issuance of the valuation advance rulings will be able to make from February 2010. Valuation advance rulings are to be made publicly available on the Customs homepage.	Korea Customs Service needs no additional computer system as it has all customs-related information	Rulings are drafted, reviewed and issued with very simple office automation equipment present in most modern office settings. We use MS Word to draft the rulings. We did develop a system for publication of rulings. The Customs Rulings and Online Search System (CROSS) contain all rulings issued since 1989. The system was developed in-house by Customs' Information Technology using Windows-based database platform.
14	REQUIRED FURNISHINGS AND EQUIPMENTS	There is no particular furnishing and equipment for implementation of VAR		There is no particular furnishing and equipment for implementation of VAR		Computer systems according section above

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
15	REQUIRED TIME FOR IMPLEMENTATION			Japan Customs spent one year preparing to introduce valuation advance rulings system.		
16	TRAINING FOR CUSTOMS PERSONNEL		Our workforce is aging and much of the regional and HQ expertise has or is about to retire. One big challenge is identifying the right workforce and developing their knowledge and expertise and keeping them on strength. In Canada's opinion you need valuation experts not generalists. To issue an Advance Ruling you must be able to ask the right questions and interpret the facts and provide an answer. In many ways this is as complex a task as conducting a valuation verification as you must have knowledge of all the possibilities.	Japan Customs distributes the guidance, Q&A and leaflets so that Customs officers in charge of valuation advance rulings can be properly furnished with the system and procedures of the valuation advance rulings.	Korea Customs offers ACVA training program in the Customs Border Control Training Center. The program covers TP guideline, WTO customs valuation agreement, transfer price valuation, comparison of valuation methods between the Customs Act and the Adjustment of International Taxes Act, providing theoretical and practical training to officials. Korea Customs plans to further expand the training program which is currently conducted once a year for 2 weeks.	Staff at the Valuation Branch is all attorneys (lawyers).In addition new staff members attend an intensive 3-week course on customs valuation together with new auditors from the Regulatory Audit Division.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
17	IMPLEMENTATION IMPACT ON EXTERNAL USERS	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. The result of a client using an advance ruling is cost saving to the client and to Customs. The ruling provides the client with predictable information in advance of the movement of goods in order to facilitate compliance with Customs requirements.	Advance Rulings play a role in managing the risk of non-compliance. Importers who have an NCR / Advance Ruling are more likely to comply, in fact we expect them to comply. You might recall that I mentioned earlier that Canadian law puts an obligation on the importer to self-correct their errors when they have "reason to believe". Advance Rulings are such a reason to believe and while an advance ruling can bring compliance for Customs, and peace of mind for importers who comply, it can also bring sanctions for the importer who chooses not to comply.	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. Accordingly, valuation advance rulings may reduce business costs associated with import transactions as well as time required for examination of duty declarations at clearance and/or post-clearance stage.	ACVA reduces the chance of post audit on transfer price so that companies can reduce the risk of Post audit and concentrate on their business. In addition. On the other hand, applicants may face increasing accounting and law costs required to apply for ACVA and prepare necessary documents.	The U.S. advance rulings program has increased certainty for traders by providing improved information concerning the trade community's rights and obligations. It has promoted voluntary compliance with these laws as well as consistent treatment at all U.S. ports.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
18	IMPLEMENTATION IMPACT ON CUSTOMS CLEARANCE	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. Advance rulings also assist in making customs audits quicker and more efficient. Customs time is therefore spent more effectively examining other facts of the importation.	Advance Rulings are also important in the international trade forum. Under the Doha Round Agenda, members of the World Trade Organization are discussing Advance Rulings in the context of negotiating a Trade Facilitation Agreement. So while we currently discuss Advance Rulings as a best practice, they could become an obligation on customs administrations and a right for importers. Clearly, Asia Pacific Economic Cooperation members have already recognized the importance and benefits of Advance Rulings and will be ready if and when a Trade Facilitation Agreement is reached. Advance Rulings are important to us not only because they support the accurate collection of revenue and trade statistics, but because they incorporate many of the characteristics of a modern, client-driven, customs trade administration that is focused on trade facilitation and compliance with import laws	The valuation advance ruling is honored 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.	When a taxpayer makes a declaration according to legally issued certificate of valuation advance ruling, the head of the customs of clearance should accept the declared customs value. And after applying for ACVA, a company can make an import declaration applying a provisional value of the goods, so if there is a change in customs value after ACVA and the taxpayer has to pay the balance of a tax, he is exempted from a penalty tax.	The system facilitates trade by lessening the time CBP needs to make decisions at the border, generating substantial cost savings for the customs administration.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
19	DRAWBACKS AROSE FROM PROCESS IMPLEMENTATION AND HOW TO OVERCOME THEM	Post implementation, the external users provided valuable feedback on the effectiveness of the scheme. The feedback was provided at regular intervals that is at 6, 12, 18 and 24 months after implementation. Feedback was a valuable source of information on how to ensure the scheme delivered its aims.	advance rulings or National Customs Rulings, play a role in managing the risk of non-compliance. Importers who have an NCR / Advance Ruling are more likely to comply, in fact we expect them to comply. You might recall that I mentioned earlier that Canadian law puts an obligation on the importer to self-correct their errors when they have "reason to believe". Advance Rulings are such a reason to believe and while an advance ruling can bring compliance for Customs, and peace of mind for importers who comply, it can also bring sanctions for the importer who chooses not to comply.	At the time of introduction, valuation advance rulings including the applicant's and related parties' name were made publicly available on the Customs homepage in principle. That might be one of the reasons why importers showed negative attitude toward the use of valuation advance rulings system. Therefore, Japan Customs revised the publication policies set out in the administrative guidelines so that the rulings excluding business confidential information and references to specific parties of the transaction are made publicly available on the Customs homepage.		The major drawback that resulted from implementation was its wide acceptance of the program by users. The large volume of requests forced U.S. Customs to shift responsibility for issuance of tariff classification rulings to the regional offices at our ports of entry. VARs are still issued at the Headquarters Office.

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
20	REGISTRY DESIGN AND TRACKING OF ISSUED APPLICATIONS AND RULINGS		<p>One of the roles played by Headquarters is the verification of the quality of the work done. We have instituted a program that samples the decisions issued by our regional offices and verifies them for accuracy and clarity. While this is a valuable tool to identify training gaps and needs analysis for the further development of officers, it is a frustrating exercise as you never know if all the proper questions were asked or if the situation was completely and thoroughly analyzed. Having a quality assurance program guarantees that there is no abuse in the system and no systemic problems or questions of how the law should be interpreted. A quality assurance program is critical to the integrity of your program.</p>	<p>1) After the regional Customs headquarters receives an application form, the headquarters gives registry number to the form. The valuation advance ruling to the inquiry in the application form is also given the same registry number and kept with the application form. 2) The application form and the ruling are kept in the Customs internal database. All the Customs officers can refer to the form and ruling through the database. 3) The regional Customs headquarters sends and shares copy of the application form and the ruling to the other Customs headquarters. 4) With regard to the tracking of issued rulings, Customs officers responsible for customs valuation, post-clearance audits and customs clearance are to find whether the facts supporting the issued rulings have changed or falsely presented to the Customs. .</p>		

No.	ISSUE	AUSTRALIA	CANADA	JAPAN	KOREA	UNITED STATES
21	DEVELOPMENT OF COMPUTER SYSTEM	Australia uses a computer system to record, receive and process advance rulings. The system has been developed in house by Customs and Border Protection IT section.	The CBSA's Technical Reference System is a simple searchable data base where we input all the decisions issued to importers. Whether they are issued as a national customs ruling following an importer's request; or, if as a result of a decision following a compliance verification or audit, it is on-line and accessible to all our trade officers in the Regional Offices and at Headquarters. At Headquarters, it allows us to monitor the decisions issued and for the Regional Offices it is a source of information to monitor importations. I would note that we keep decisions in TRS for Tariff Classification, Valuation, and Origin programs. While these are not publicly available (they contain confidential information) there are some efforts in the Tariff Classification program to sanitize them of confidential information and make them available to the public.	Japan Customs is going to improve the online computer system to receive the application form and related documents and to issue the valuation advance rulings in February 2010.		Rulings are drafted, reviewed and issued with very simple office automation equipment present in most modern office settings. We use MS Word to draft the rulings. We did develop a system for publication of rulings. The Customs Rulings and Online Search System (CROSS) contain all rulings issued since 1989. The system was developed in-house by Customs' Information Technology using Windows-based database platform.

COMPARATIVE MATRIX OF TOPICS DISCUSSED IN THE WORKING GROUPS

REQUESTED LEGAL FRAMEWORK, POLICIES AND STRATEGIES DEVELOPED IN THE IMPLEMENTATION STAGE

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
RULES ESTABLISHED IN FREE TRADE AGREEMENTS	In case of FTAs, there must be a change to the law in order to implement advance rulings.	It is not necessary that only a Free Trade Agreement established the rules of Valuation Advance Rulings. It is possible that the legislation established the process. Also is possible that either a Free Trade Agreement or the legislation as well established the process.	As possible, It 's a good recommendation, the FTA have these kind of rules, in order to get the first step in the domestic legislation.	It is desirable to establish provisions of advanced rulings systems in the framework of FTAs.	Member Economies should not be forced in implementing Valuation Advance Rulings which are ruled by an agreement or legislation. Member Economies should implement VAR voluntarily since it represents a benefit for both Customs and clients.
DOMESTIC RULES AND GOVERNMENTAL POLICIES WHICH ESTABLISHED THE APPLICATION OF RULES	Domestic rules are needed but they must be flexible regulations for amendments within the government, which can be easily changed while providing stability for Customs and importers.	Both, governmental policies (legislation, Custom Law, by example) or administrative guidelines issued by Customs Administration are necessary for established the process.	It 's important and necessary, that the domestic legislation have this rule.	Government administrative arrangements should give flexibility, since it does not required congress approval and therefore it is easier to make changes. Besides, incorporating changes might be common at the beginning stage of implementation.	It depends on each economy to establish rules and/or laws on a governmental basis in order to regulate the VAR applications and this application could be regulated by customs procedures.
REQUIRED PROCEDURES AND PROCESSES FOR AN EFFECTIVE IMPLEMENTATION AND FUNCTIONING OF THE VALUATION ADVANCE RULINGS	A policy must be set on issues such as who can request advance rulings (importers, producers, exporters, manufacturers or agents), what kind of information Customs will provide, how the appeal process will be set, what information requirements must the importer provide. Senior management must be informed and private sector must be involved in the process of advance rulings implementation.	The administrative guideline should include elements such as applicants, scope of valuation advance rulings, application format, requested supporting documents, time needs to issue the ruling, case where advance ruling cannot be issued, the life time of the ruling, review process, publication, binding character, etc.	It 's necessary to establish a procedure, because we have the steps and details, in order to submit and issue the valuation advanced rules. And in this way there are transparency and efficient.	It is important to establish a detailed procedure and processes that include among others the following key elements: times frames for issue, extra information and mainly in order to have a successful implementation is imperative to have public knowledge, strong commitment by the customs administration, active involvement of stakeholders.	The process of VAR application should be established in a procedure ruled by Customs administration, in which all the application process shall be set in detail. Time frame for the issue of rulings, provision of extra information, validity of ruling, review and appeal process and modification of rulings should be established in it.

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
STRATEGIES CARRIED OUT IN THE IMPLEMENTATION	An implementation team must be formed for the implementation process, this team must also be in charge of training and building on the expertise of officials involved with valuation issues, define each of the players' roles in the process of implementation of advance rulings, make sure to keep all Customs areas and private sector informed on this process before implementation, decide whether it will be a centralized or decentralized service, decide who issues advance rulings according to the current working method in each economy.	One important strategy is take notice about the experiences of other economies that have more experience with the system. Also is important, in a second stage know the suggestions from private sector.	The procedures must be published in the web site, and the external users can give their opinion, and with this feedback it is possible to improve the procedures.	Some best practices identified might be ensuring feedback from trade community before final publication. Involvement of valuation team and full support from the customs administration.	Dissemination of the VAR benefits for clients and Customs through workshop where importers, customs brokers, etc. could participate. Provide capacity building to Customs officers in Valuation matters and how they should make decisions regarding advance rulings.
PARTICIPATION OF PRIVATE SECTOR IN THE IMPLEMENTATION STAGE	They must be involved.	Its better if exists a pre publication of the procedure guideline draft, in order to take notice about the opinion of private sector.	We consider that it is a good policy to have the participation of private sector.	It is necessary to involve the private sector, some examples of these best practice might be holding public meetings, conduct public awareness or creation of working groups that comprised representatives of different trade sectors.	Private sectors send their opinions regarding the VAR implementation to Customs administrations for them to take into account before the establishment of VAR application
PUBLIC RELATIONS AND COORDINATION BETWEEN BUSINESS AND FOREIGN TRADE USERS	It is completely necessary as it is an opportunity to show that Customs is open and transparent. It also creates a positive image that Customs is a trade facilitator.	It is important to have workshops or meetings with the foreign trade users in order to introduce the system and know their points of view.	We are agreed about his item.	It is important to maintain and include feedback of representatives from various organizations, companies in the trade community.	It is advisable to hold meetings with the private sector for exchanging opinions.

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
PUBLICATION AND DISSEMINATION BEFORE THE ENTRY IN FORCE OF THIS MECHANISM	It is very important. Customs must take advantage of opportunities presented by having a good relationship with the private sector.	We should noticed the importers and others stakeholders before start the system, by different means, by example, posted at web page, published in a official newspaper, published in a leaflet, etc.	The answer is yes, because It is important, the external users know the mechanism and the rules.	They are different modalities to disseminate the information, for example: manuals, bulletins, public awareness, notices, official gazettes, leaflet and web pages.	It is advisable to disseminate the information about VAR application and benefits through Customs website, leaflets, workshops, newspaper.

LOGISTIC ASPECTS FOR THE IMPLEMENTATION OF VALUATION ADVANCE RULINGS

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
REQUIRED RESOURCES FOR IMPLEMENTATION	It is very important to have resources but it depends on the situation of each economy.	A valuation law and valuation procedures library, background valuation cases, human resources with experience in customs valuation, informatic systems, a web page.	Officers in charge of Customs valuation should deal with valuation advance rulings.	Trained personnel on customs valuation.	A specialized team in charge of this subject exclusively.
NEED AND SUPPORT FOR A CREATION OF AN AREA WITHIN THE ORGANIZATION IN CHARGE OF ISSUING THE VAR	An area responsible of issuance is absolutely necessary. This area must include the policy development team.	The currently Customs Valuation Division or Custom Valuation Section should take charge of the issuing of the Valuation Advance Ruling.	It 's necessary a specialized area, but at first it must evaluate the quantity of request by importers; in order to reinforce and improve this area.	It might not be necessary to create a new area, since the team in charge of customs valuation can develop this task.	It is advisable to have a team in charge of issuing the VAR depending on the requests for VAR.

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
ORGANIZATIONAL STRUCTURE	It is more efficient and effective to have a centralized office mostly for geographical reasons and because a group of experts on the subject can be gathered in one place for coordination purposes at implementation stage. Nevertheless once the system is running and provided that all offices are properly linked, it is duable to have a decentralized system by communicating on-line, in videoconferences, among others.	It depends of the economy chooses a centralized system or decentralized system for issuing advance rulings.	We consider, it is better to have a centralized area, because in this way it 's possible to save humans and logistics resources. And to have the same criteria. But if the request increase, it will be necessary to evaluate the creation of decentralized areas.	It depends on the current organizational structure.	VAR should issue by the head office.
REQUESTED PERSONNEL	It is necessary to have officials involved mainly in valuation and customs issues and they also may have specialized skills such as law and accounting knowledge. An implementation team must comprise several branches in Customs such as communications, human resources and other areas necessary for the purposes of the program.	It depends of the number of applications that are submitted, but at the beginning it should be useful have, at least, 4 persons: 1 chief and 3 officers .	In accordance with the economies experiences, the number of the customs officers must be 4 or 5. But It all depends, how many requests will be submitted by importers.	Personnel have to be trained on customs valuation.	Staff required to issue advance rulings depends on how many requests for VAR are received.
PERSONNEL FUNCTIONS	It may include policy development, verifications, audits, and of course the issuance of advance rulings.	Reception of an application, checking an application, examining the facts of the request, request additional information to the importer and issue the ruling.	Review documentation Analyze the facts, the valuation laws Visit the industries to get the real information, whether it is necessary. Discuss some controversial items with the importers.	Responsible to issue the ruling, supervising and signing of the ruling.	officer(s) to issue the ruling, officer(s) to supervise and sign off on the ruling

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
COMPUTER SYSTEMS DEVELOPED IN THE IMPLEMENTATION STAGE	It may be necessary as part of a bigger system depending on the issuance demand and on the stage in the clearance process in which valuation takes place.	It is not necessary has a computer system developed at the beginning of the process. The importer could submit the application by paper with the supporting documents.	It is necessary to have a computer system, but it must be analyze the cost benefit.	Use of IT technology and the development of a database publication.	It is advisable to have computer systems in order to record relevant information regarding VAR and tracking all this information.
REQUIRED FURNISHINGS AND EQUIPMENTS	There is no special need but it should meet departmental standards.	There is no particular furnishing and equipment for implementation.	It is necessary to have computers for personnel and furnishes to keep confidential documentation, and to have an especial physical area, where furnishes can be and only the authorized personnel can enter there.	Computing equipment and system.	It depends on the clients' demand.

IMPLEMENTATION

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
REQUIRED TIME FOR IMPLEMENTATION	According to legislative requeriments, if any. However depending on the current climate of each economy, it may take over a year.	We think that an reasonable period of time is between 1 year and 2 years for implementation.	In accordance with the experience of the economies, the time could be 1 or 3 years. And it must analyze the internal policy of each country.	A year could be an average period of time for preparing valuation advance ruling system.	There is no specific time for implementing. It is not advisable to consider an specific time because it depends on the dynamic of work each economy.

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
TRAINING FOR CUSTOMS PERSONNEL	It should be a timely training appropriate to officials' needs.	At the beginning is better choose personnel with a lot of experience on WTO customs valuation agreement. In a second stage, that personnel trained other officers without much experience.	Firstly, the personnel must know about the valuation agreement and must be trained in documentation review, account. And at least two weeks for this training.	Specialized training on customs valuation programs.	For persons who have no knowledge in this subject matter.
IMPLEMENTATION IMPACT ON EXTERNAL USERS	The anticipated impact should be discussed before, and then analyze and report during and after the implementation stage. The impact should be measured against initial objectives set out at planning stage. A questionnaire for users may be developed to collect comments on the process. Based on results, adjustments may be required.	The main impacts are the increase of the predictability of the trade users. Also the process reduces the cost of foreign trade users. An advance ruling system reduces the time of the clearance stage, so that reduces the cost for foreign trade users.	The impact is positive on the external users, because this implementation will allow to them, reduce time and transaction costs and, transparency in the stage clearance.	Moreover, it leads to risk reduction and provides the trade community predictability and certainty,	The implementation impact could be measured by developing a report which indicates the number of VAR requested by users and that there are no appeals by users on VAR issued.
IMPLEMENTATION IMPACT ON CUSTOMS CLEARANCE		The advance ruling system can reduce the time for examination of duty declaration of the imported goods at the clearance stage and/or post clearance stage.	The impact is positive too; because reduce steps in the clearance, although the customs documentation can be reviewed previously.	It reduces examinations and clearance process.	It should be measured by the speed up of the customs clearance

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
DRAWBACKS AROSE FROM PROCESS IMPLEMENTATION AND HOW TO OVERCOME THEM		Always is important get the feedback from the private sector, know their point of views and, eventually, improve our procedures with the suggestions from private sector.	The problems arose from process implementation about the documentation presented by the applicants. Sometimes, the documents are not enough in order to issue the advanced rulings. Then the customs administrations ask for the real information and the importer doesn't answer. In these cases, some customs administration has as policy, to revoke the request.	To consider the handling of confidential information and to make some adjustments to shift responsibilities for issuance of tariff classification rulings to the regional offices.	Probably there is no a common understanding among clients regarding to the scope of the valuation rulings. Customs should work together with clients to find a solution.

PROCESS DESIGN

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
OPERATIONAL PROCESS DESIGN	First there must be a core group to design the basic concepts, then these concepts should approved by senior management to set milestones and mandate, after that there should a be a consultation with stakeholders (internal and external) and according to them amendments may be done to the concepts, then these should be taken to senior management for further approval (resources, financing, deliverables, etc.) and finally there should be a team recruitment based on expertise.	In a first stage is possible that a centralized area issue the valuation advance ruling. After that, in the long term, with the enough experience, is possible to give that function to regional customs offices.	It is necessary to have a clear operational process design. In order to define the scheme centralized or decentralized.	It depends on each country administrative structure. A central approach might provide uniformity and take advantage of current human resources.	Before implementing this mechanism it is advisable to design an operational process. It is also advisable that this operational process shall be developed by the Head Office.

TOPICS	GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
REGISTRY DESIGN AND TRACKING OF ISSUED APPLICATIONS AND RULINGS	It is part of the design concept approved by senior management, which may include a paper-based or electronic-based library. There should be required expertise whatever the scheme is taken.	Is important have a system for registry and tracking the applications and the rulings issued. The design of the systems depends of the economy.	It is necessary to have a register in order to have the data about the importer, the goods, date or request, date of final answer, valid time resolution, and other relevant information.	It might be done by writing or electronic means. It should include, among other, the following information: presentation of request, minimum information contained in the request, timing for receiving extra-information, issuance of advanced ruling.	it is advisable to have computer systems in order to record relevant information regarding VAR and tracking all this information.
DEVELOPMENT OF COMPUTER SYSTEM	It has to be part of the initial plan of work and if any other software needs to be design, there should be IT staff in charge of this. It is better to keep it as simple and least expensive as possible.	It is not necessary has a computer system developed at the beginning of the process. The importer could submit the application by paper with the supporting documents. An computer system could be useful for a second stage.	It is important develop a computer system in order to allow a complete electronic process. And in this way, the importers don t submitted physical documents.	A system that would allow to keep information regarding the issuance of an advanced ruling.	it is advisable to have computer systems in order to record relevant information regarding VAR and tracking all this information.

Part VI.

Questionnaire Survey Results

Questionnaire Survey Results

Project Code : CTI 15/2009T

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

Workshop: Implementation of Valuation Advance Rulings in APEC Member Economies

Place: September 29-30, 2009, Lima, 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?

- Learn from experienced economies
- Change experiences
- We'll benefit with the experiences economy we have listened now by including or modifying our rulings
- It's very interesting topic for us. We can know and share the advance rulings to improve in our economy
- Russian economy has gained a lot of useful information and best practices on implementation of valuation advance rulings
- We are going to establish the scheme in Gwangzhou customs and Shangai customs
- Royal Malaysian Customs have implemented Advance Rulings since 2007. Comparatively it is quiet new. Many progress achievement of another ^& } [{ ^ which have implemented it much earlier can be a good benchmark for Malaysia
- Gained bit of knowledge on the implementation of Valuation Advance Rulings
- By enabling us to compare and collect information of other APEC economies experiences
- Knowledge about Valuation Advance Rulings
- The facilitation of customs clearance process, time and costs reduction of imported goods and result in a greater security for foreign trade operators.
- For the client to provide certainly and predictability in the application of borders regulations
- I think that it was very important because we collected information of other countries about Valuation Advance Rulings
- It let us to learn the experiences of other economies
- In this workshop we could get a lot of information from different economies which showed me how they have implemented
- This project is very important because it allows improve the clearance and do the process predictably, transparency and efficient
- The advance rulings permit us to use the best practices in the application process of this valuation criteria and this permit to reduce the time and the cost for importation goods

- We have the opportunity to compare the legislation of the other economies
- Due to the FTA USA-Peru we are obliged to implement Valuation Advance Rulings from January 2012. This workshop was very useful for us because we were able to learn the knowhow of each experienced economy which gives us more criteria regarding the first stage for implementing this mechanism.
- We have received a lot of knowledge about Valuation Advance Rulings process and how was implemented in experienced economies
- My economy take notice about the experience in the implementation of Valuation Advance Rulings process
- We have received many information of the implementation process in other economies. We have taken note and we are going to use this information in the implementation of this mechanism in our economy

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

- How to establish and implement Valuation Advance Rulings
- To communicate everything about rulings for transparency and a better work in importers and exporters
- We can now compare and share advance rulings to improve in our economy
- I have knowledge about challenges to be met by economy implementing Valuation Advance Rulings and ways of meeting such challenges in accordance with best economies experiences
- Rules. The scope of the Valuation Advance Rulings. Computer system
- It is better to centralize the issuance of Advance Rulings rather than decentralized. To train officers dealing with advance rulings
- Since my economy is yet to implement and apply the criteria, all that I learned from this workshop is new and very valuable
- Now knowledge regarding legal framework, procedures and processes required for an effective implementation and performance of an advance ruling system
- Skills
- Obtain necessary knowledge related to implementation process carried out by different experienced economies on Valuation Advance Rulings application
- I obtained a lot of information about the implementation of valuation advance ruling
- How to simplify or to reduce the time for valuation
- I have gained a lot of experience and i was able to give my opinion to make the comparative matrix
- In this meeting, it has been possible to share interesting experiences with other economies
- I have obtained necessary knowledge to implementation process about the different experience economies on valuation advance rulings application and this can be implemented in our economy
- All about Valuation Advance Rulings
- We acquired important criteria for regulations and implementation of Valuation Advance Rulings at first stage
- I have gained knowledge, experience about the implementation process Valuation Advance Rulings
- The different structure organizations required to manage the Valuation Advance Rulings system
- We have known about the logistic aspects and legal frame of the implementation process from other economies

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

- We just start to have Valuation Advance Rulings

- To try to complement our advanced rulings in use
- Adequate and professional analyse will be provided to the proposals of competent authorities to implement Valuation Advance Ruling in Russia
- The promotion of customs Valuation Advance Rulings in River Delta is under consideration
- To review the advance ruling issued to applicant
- My administration has sent me to this workshop so i will head in the preparation stage and the implementation stage
- Mainly, sharing the information
- Should implement valuation advance rulings un nearest future
- The Valuation Advance Rulings allows the cooperative team work which the administration would like to get between importers and customs. This will promote the flow of the commerce
- Working groups to examine possible methods of implementation
- Determine what elements will be included in the project
- I think that the valuation of the goods should be after the clearance of the goods
- The most important thing is the transparency because that helps to predict it
- It will be possible to consider solutions to solve problems that will be presented in the future
- This workshop allows us to collect best practice in the application process of valuation advance ruling in our economy
- In Peru we have to implement the Valuation Advance Rulings next year
- Probably review the current regulations regarding the organization we have at present
- We will not be making changes. We will be making the proposal to implement Valuation Advance Rulings in our economy
- Maybe think again the possibility to set up a decentralized model
- We are going to collect the best practices based in all the information and experiences from the economies to implement the mechanism in Perú

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

- Training colleagues in preparing advanced rulings papers
- This project could be continue with another workshop about advance rulings
- The project should be aimed at increasing number of discussing during workshop activities
- The strengthen to training of customs official
- What has been given is already sufficient
- Some part of reviews should be carried out on regional levels, specially these economies who are already implementing the criteria
- Each economy could make an internal assessment on its current situation and the changes on adjustment that will be necessary to implement, in order to adopt an advance ruling system
- The project should be built regularly, maybe twice a year in each member economy
- The use of computer tools for Advance Rulings implementation
- Analyse our clients, importers, brokers, customs agency. Coordinate with them their necessities. Develop a computer system
- It is necessary to learn the goals and the challenges in our real situation
- We need to implement laws in our economy that permit us the application of the best valuation criteria in advance ruling and also improve knowledge related to implementation process
- Now we have a complete knowledge about Valuation Advance Rulings, after these two workshop I think we all are ready to give ideas, suggestions, opinions, etc. To our economies to improve or implement Valuation Advance Rulings mechanism
- Once the Valuation Advance Rulings system will be in effect we will select the main problem of it application in order to requires advice from other economies

- The next step is to design the operative process and work in the implementation process and also to emit a customs procedure about the application of Valuation Advance Rulings

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
- Always projects are useful in implementation
- Yes, there is in APEC economies advance rulings
- This issue is being solved. The decision it will be taken with taking into account practices of other competent authorities
- It needs to discuss with management of department first before implementation
- There should be plans in the future and i will highlight this in my report to my customs administration
- Sharing experiences and helping developing countries
- The supervision of the valuation advance rulings process
- Create a special office
- Yes there is. We are working for implement the Valuation advance rulings
- It should be through fora because we need to learn from the experiences of other economies.
- Peru has some different actions which we are working them
- As individual economy we must finish with the requirements for implementing Valuation Advance Rulings mechanism, we have already been working on
- No there is not. It should be important that the economies do not have Valuation Advance Rulings mechanism yet, on base this workshop, develop the Valuation Advance Rulings mechanism

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

- (5) (good): 19 (95%)
- (4) : 1 (5%)
- (3) : 0
- (2) : 0
- (1) (poor) : 0

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

- Good
- It'll be effectiveness in details
- Maybe more practice for sharing, more workshops, more material and more speakers
- The effectiveness is rather right and needs to be saved at the same level
- I am very happy with effectiveness of the project
- Very effective and in full support
- Through the workshop it was identified best practices and detailed information regarding processes and providing a guide implementation
- The rules should follow these changes for their effective implementation
- I collected the experiences from other economies
- It is good and necessary
- We need to make a structure where we can show it
- this workshop provide us the experiences to the economies who have not implemented the valuation advance rulings yet with recommendations and suggestions for implement Advance Ruling in a effective way
- We have gained experience from other economies
- About this workshop my assessment of its effectiveness is that this workshop will be very useful as a guide in the process implementation of Valuation Advance Rulings
- I think the project has a reasonable effectiveness

- This workshop fulfilled his objectives and have allowed to the attendances to know about the process and experiences in economies that apply the mechanism for many years

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

- Just right (19)
- Too detailed (1)
- Not detailed enough (0)
- N/A (0)

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

- Visiting colleagues which are working in this topic
- For the speakers, please more details and for SUNAT thank you for the cooperation
- The project us organized excellently. Organizers should conduct the same policy in providing APEC events
- Too short time to all the participants to share their experience
- Unable to make comments, but the project so far u very good. I stated this because my economy did not participate in the first workshop (2008), but manage this time which us of great value
- The project was very good organised and provide all the elements necessary to conduct an assessment internally in each ^& } [{ ^
- Should be written and based on confidentiality
- Enhancing transparency and predictability
- This project was interesting. I learned the implementation process followed by the economies with experience in its application.
- It's better to send the material with the appropriate anticipation
- We got a lot of skills. We can improve this project if we invite some clients or stakeholders
- This workshop is a very good experience for our economy to change opinions with other economies
- The presentations of the speakers was clear and useful for our economy in order to consider in the implementation process. The project could improve with the development of other workshop related to the implement process of advance rulings

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, all attendees including speaker shared experiences and they obtained the necessary knowledge for implementation process of Valuation Advance Rulings
- Yes, attendees learned about different experiences of how economies who have Advanced Rulings implemented the scheme
- Yes, I think the project achieved its objectives, presentation and active discussion made by the speakers and participant will help member economies to improve their valuation advance ruling process

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

- All attendees were appropriate
- Generally, valuation experts from member economies attended. This was the target group
- I think, the attendees are the most appropriate target group

- It would appear so. Question asked and issues raised seemed most appropriate
- Yes, if they are able to recommend that advance rulings are implemented

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

- Very good project
- Excellent
- I think the project was well planned and very effective
- The workshop was excellent. I would say overall the project was effective
- Good if it results in adoption of advance rulings

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

- Duration is very short. More speakers is better. Not only implemented economies but also economies which have plans to implement the Valuation Advance Rulings
- There was nothing wrong with the project but fewer speakers might have given more time for discussion and overall sharing of best practices. Too many speakers end up repeating the same thing of different topics

Question (e): Any other suggestions?

- Further activity (s) should be done to fully use the deliverables made through this workshop
- I am very grateful for an excellent organization and the ability to share information with APEC colleagues

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 implementation stage by experienced Member Economies. Best practices in the implementation of this process could be identified and will serve for implementing this system in an efficient manner.

Experts from Australia; Canada; Japan; Korea; 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 levels 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 implementation 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.

With the required and complete information and knowledge, which were collected in the “Workshop on Application Criteria in Advance Rulings in APEC Member Economies” held in Arequipa on 23 –24 May 2008 and the “Workshop on Implementation of Valuation Advance Rulings in APEC Member Economies” held in Lima on 29 – 30 September 2009 within the APEC framework, about how to apply and implement the Valuation Advance Rulings effectively the APEC member economies will be able to have the necessary tools for implementing and applying the Valuation Advance Rulings efficiently.

In that regard, the implementation and application of Valuation 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

The results obtained from the Project will be presented at the SCCP1 meeting to be held in Japan in 2010, where the detail of activities developed in the two-day workshop, the matrix developed by the working groups, the obtained benefits, recommendations and the best identified practices will be disseminated among economies attending the event.

Likewise, it is expected to follow-up the project results by developing surveys to be disseminated among APEC economies, which participated in the Implementation and Application Workshops of Valuation Advance Rulings, with the aim of measuring the impact of workshops' results on the participating APEC economies, which have not implemented this mechanism and those which are applying it. If at least four economies implement the Valuation Advance Rulings mechanism until 2012 considering the best identified practices in both workshops; or if any economies, which have been applying this mechanism, have used the best practices for improving their processes resulting in a reduction of time and costs in the clearance of imported goods; we can come to a conclusion that the workshops have had a high degree of effectiveness and have been fruitful for APEC economies to comply the objectives followed by APEC according to the measurement indicator in the project.

Part IX.
Conclusions

Conclusions

- 1.- The project achieved the objectives that have been proposed. Some of these fulfilled objectives are:
 - Member Economies that attended the Workshop could collect detailed information about requested legal framework, policies and strategies developed in the implementation stage, logistic aspects for the implementation of Valuation Advance Rulings and the operational process.
 - 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 implementation 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.- All the information collected in the "Workshop on Application Criteria in Advance Rulings in APEC Member Economies" held in Arequipa on 23-24 May 2008 and in the "Workshop on Implementation of Valuation Advance Rulings in APEC Member Economies" held in Lima on 29 – 30 September 2009, the APEC member economies will be able to have all necessary information and tools for implementing and applying the Valuation Advance Rulings.

Part X.

Recommandations

Recommandations

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

- 1.- It is recommended for the process of Valuation Advance Rulings application to be detailed in a Procedure regulated by the Customs Administration. In such Procedure, the time limit for Rulings issuance, additional information request, Rulings validity, review and appeal process and Rulings modification, etc., will be regulated.
- 2.- As a strategy performed before implementation, it is recommended to collect experiences from other economies, which have successful experiences in applying this mechanism. Likewise, it is important to disseminate the benefits of Valuation Advance Rulings to the external users through workshops or written means and to learn opinions about this mechanism. Finally, it is recommended to form a team responsible for the operational process design, training and capacity building of officers in charge of applying the Advance Rulings, quantity of persons and their roles as coordinators with private sector before the implementation of this mechanism.
- 3.- It is recommended to involve the private sector in the implementation stage through public meetings with the aim of learning its points of view. It is important to have feedback jointly with representatives from organizations of private sector before and after the implementation with the aim of improving the process. It will prove that the Customs Administration is open and transparent and that creates a positive image of Customs as a facilitator.
- 4.- It is important for external users to learn about the Valuation Advance Rulings before its entry into force and it is also important to disseminate the information by different means such as Customs websites, bulletins, workshops, newspapers, magazines, etc.
- 5.- For purposes of implementation, it is required to have complete information of rules and procedures of valuation, background of valuation, specialized human resources with experience in Customs valuation, adequate furniture for personnel in charge of Advance Rulings allowing saving confidential information and an implemented computer system for registering the Advance Rulings.
- 6.- It is recommended that in the first stage of implementation for the relevant office issuing Valuation Advance Rulings to be located in the Customs Administration headquarters for coordination purposes. In a second stage, the Administration may evaluate if it is feasible to decentralize the system.
- 7.- It is necessary to have a specialized team to issue Advance Rulings, however, it is not recommended to create a new office since the specialized team may be located within the Division of Customs Valuation.
- 8.- The staff required to comprise a specialized team will depend upon the number of Rulings to be issued. In a first stage it is recommended to have at least four (04) persons: one (01) manager or supervisor and three (03) Customs officers.
- 9.- It is recommended for Customs officers issuing Rulings to be in charge of receiving and verifying requests, analyzing documentation, examining request facts, requesting additional information to the importer, discussing controversial topics with the importer

and issuing the Ruling. The manager or supervisor shall be in charge of revising and signing an issued Ruling.

- 10.- In the implementation stage, it is recommended to have a computing system enabling to record, register and administer any relevant information related to issued Valuation Advance Rulings. In a second stage, it is recommended to assess the need to implement a consultation database and the possibility for importers to request automatically an Advance Ruling with relief from submitting documents.
- 11.- According to experiences from Member Economies, the average time required for an efficient implementation may be one to two years, in which a necessary preparation will be held in regards to standards, human resources, computing systems and coordination with the business sector to implement Valuation Advance Rulings.
- 12.- In order to measure the impact of the Valuation Advance Rulings' implementation in external users, a questionnaire may be developed to collect comments on the process. Based on results from the questionnaire, adjustments may be made in the system.
- 13.- In the implementation stage, inconveniences and critique may rise from external users due to disadvantages perceived from the application of Advance Rulings, however, they can be overcome by a joint work in cooperation and dissemination of the benefits from Advance Rulings in goods clearance to external users.

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

ISSUES	IDENTIFIED BEST PRACTICE
Domestic rulings and governmental policies establishing its application	<i>It is recommended that the process of the Valuation Advance Rulings application shall be detailed in a Procedure regulated by the Customs Administration, which shall be pre-published in the Customs Administration website before its approval in order for external users to comment and exchange ideas to improve the Procedure.</i>
Strategies held in the implementation stage	<ul style="list-style-type: none"> • <i>Collect experiences from other economies.</i> • <i>Disseminate the benefits to the external users through workshops or written means and to learn opinions about this mechanism.</i> • <i>Form a team responsible for the operational process design, training and capacity building of officers in charge of applying the Advance Rulings, quantity of persons and their roles as coordinators with private sector.</i>
Participation of the Business sector in the implementation stage	<i>It is recommended to involve private sector in the implementation stage through public meetings with the aim of learning its points of view and have a feedback before and after the implementation with the aim of improving the process.</i>
Dissemination and publicity before the entry into force of the mechanism	<i>It is important for external users to learn on information by different means such as a Customs website, bulletins, workshops, newspapers, magazines, etc.</i>
<i>Necessary resources for implementation</i>	<ul style="list-style-type: none"> • <i>Complete information of rules and procedures of valuation.</i> • <i>Background of valuation cases.</i> • <i>Specialized human resources with experience in Customs valuation.</i> • <i>Adequate furniture for personnel in charge.</i> • <i>Implemented computer system for registering the Advance Rulings.</i>
Organizational structure	<i>In the first stage of implementation, the relevant office issuing Valuation Advance Rulings may be located in the Customs Administration headquarters. It is not recommended to create a new office since the specialized team may be located within the Division of Customs Valuation.</i>
Required staff and staff roles	<i>It is recommended to have at least four (04) persons: one (01) manager or supervisor and three (03) Customs officers. Customs officers issuing Rulings shall be in charge of receiving and verifying requests, analyzing documentation, examining request facts, requesting additional information and issuing the Ruling. The manager or supervisor shall be in charge of revising and signing an issued Ruling.</i>
Computing system to be developed	<i>It is recommended to have a computing system enabling to record, register and administer any relevant information related to issued Valuation Advance Rulings.</i>
Required time for implementation	<i>The average time required for an efficient implementation may be one to two years, in which a necessary preparation will be held in regards to standards, human resources, computing systems and coordination with the business sector.</i>
Measurement of implementation impact	<i>A questionnaire intended for external users may be developed to collect comments on the implemented process. Based on results from the questionnaire, adjustments may be made in the system.</i>