

WRITTEN TESTIMONY: LENOVO INTERNATIONAL RE.  
FREE TRADE AGREEMENT NEGOTIATIONS WITH THE  
REPUBLIC OF KOREA

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Regulatory control of goods imported into the Republic of Korea is governed by Article 38 of the Korean Customs Act. Among other stipulations of this act, provision is made for post-importation reconciliation of import duties based on clerical errors which caused the stated value of the goods at the time of importation to be incorrect. However, no provision within the Korean Customs Act is made for submitting values to Korean customs based upon "best information available" at the time of importation, and subsequently providing corrected valuation after values are completely understood.

In contrast to Korean customs practices, US regulations have allowed post-importation true-ups of stated values since October 1, 1998. At that time, US Customs introduced the Automated Commercial System (ACS) Reconciliation program. This change in regulations reflects US Custom's acknowledgement that the correct value of imports may not be known at the time goods are imported into the US. For example, goods being imported may be priced under a volume pricing agreement between a manufacturer and the importer of record, who is the manufacturer's customer. As volumes sold under the agreement increase, the unit price of the goods decreases. Under the Automated Commercial System, the importer has 21 months to true-up the corrected value of the goods, and re-declare the corrected value to US Customs. Subsequently, the importer will receive a refund on duties or administrative fees which were initially overpaid. This is only one example of several business circumstances in which the accurate value of imported goods is not known at the time they are imported into the US.

Under the ACS, reconciliation of value is a two-step process. First, importers must alert US Customs that they are filing entry documentation based upon the "best information available" at the time of entry for certain specified issues, namely customs value, NAFTA eligibility, and sometimes customs classification. This is known as "flagging" the entry.

Second, once the final valuation information is known (after transfer prices are "trued-up"), the corrected information is submitted to Customs on a new type of entry called a "reconciliation".

A similar process for price reconciliation subsequent to importation of goods does not exist within Korean law. Lenovo feels that not including a reconciliation provision in Article 38 of the Korean Customs Act places a potentially onerous burden on importers of record into the Republic of Korea. In many instances, lack of reconciliation capability results in overpaid duties, taxes and fees to the Republic of Korea with no avenue for relief. In addition, lack of a reconciliation process in Korean customs regulations reflects an apparent lack of understanding of international trade pragmatics by the Korean government.

In summary, the US Customs reconciliation program is a systematic way for importers to adjust customs value based on information gathered subsequent to importation. Not having similar provisions in the Korean Customs Act places a potentially unfair burden on importers in Korea. Lenovo requests that the US Interagency Trade Policy Staff Committee consider including the addition of post-importation true-up capability in the Korean Customs Act as one of the negotiating objectives in its upcoming free trade agreement negotiations with the Republic of Korea.