

Ad valorem tariffs and customs valuation

Citation for published version (APA):

Macedo, L. C. L. (2020). *Ad valorem tariffs and customs valuation: implications for the stability and predictability of national revenue from tariffs*. [Doctoral Thesis, Maastricht University]. Maastricht University. <https://doi.org/10.26481/dis.20201130lm>

Document status and date:

Published: 01/01/2020

DOI:

[10.26481/dis.20201130lm](https://doi.org/10.26481/dis.20201130lm)

Document Version:

Publisher's PDF, also known as Version of record

Please check the document version of this publication:

- A submitted manuscript is the version of the article upon submission and before peer-review. There can be important differences between the submitted version and the official published version of record. People interested in the research are advised to contact the author for the final version of the publication, or visit the DOI to the publisher's website.
- The final author version and the galley proof are versions of the publication after peer review.
- The final published version features the final layout of the paper including the volume, issue and page numbers.

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Valorization Addendum

1. Social and economic relevance

Revenue is essential to providing public goods and services, increasing equity and helping manage macroeconomic stability. It is a central component of financing sustainable development goals (SDGs) across the United Nations (UN). In this context, there is a strengthened awareness of the link between taxation and international trade.

Assuming a scenario of global fiscal debt, low inflation and slow economic growth, this dissertation investigates the adoption of AV tariffs in association with the WTO rules on customs valuation for countries' revenue needs. It questions beliefs about sustainable international trade liberalization based on the perspective of converting all types of tariffs into AV, which are applied in combination with customs valuation rules.

In this regard, the dissertation takes a critical view of the WTO policies of converting NAV into AV tariffs and setting customs valuation rules based on free market assumptions. It argues that AV tariffs and the WTO rules for customs valuation may be suitable for many categories of goods and countries, but not for all.

Goods with high import tariffs, countries lacking the capacity to check declared import prices, unknown export prices, regulated markets, and an increasing importance of services in the value of traded goods are some elements for consideration when debating the pros and cons of AV tariffs.

Due to government's fiscal weaknesses, it is thus important to discuss the role of tariffs and customs valuation for taxation in various fora, including the United Nations (UN), the World Trade Organization (WTO), the World Customs Organization (WCO), the Organisation for Economic Co-operation and Development (OECD), the International Monetary Fund (IMF), the World Bank, and several regional development banks, such as the European Investment Bank (EIB), the Islamic Development Bank (IsDB), the Asian Development Bank (ADB), European Bank for Reconstruction and Development (EBRD), the Inter-American Development Bank Group (IDB), and the African Development Bank (AfDB).

The social and economic relevance of the revenue function of tariffs is thus the understanding that AV tariffs can bring risks for countries in need of the revenue resources from tariffs. Revenue instability and uncertainty result in undesired outcomes for sustainable economic and social policies, as well as for international trade liberalization.

After decades of GATT tariff negotiations, WTO schedules of concessions and Members national tariffs mainly use the AV tariff type. Over the years, different NAV were converted into AV. The present dissertation thus contributes to revisiting AV conversion on the multilateral level in relation to the relevant provisions of WTO law. As such this dissertation challenges the status quo of AV tariffs for schedules of concessions and national tariffs lists.

2. Target groups

This dissertation should be of interest to various actors operating in the areas of customs, international taxation, trade finance, trade negotiations, economic development, and policy making, among others. These actors can be found within several international

organizations, countries economy and trade ministers, relevant international consulting companies, industry associations, and large business corporations.

Particularly WTO Members may be interested in the topic of the dissertation in order to gain a better understanding of the challenges of working with AV tariffs. These Members might also get a better understanding of their existing rights with respect to the use of other tariff types rather than AV, according to the WTO rules of law. This particularly concerns less developed economies, as well some developing economies that struggle to audit declared values in international trade. It is argued in the conclusions of this dissertation that AV simplification to monitor and negotiate tariff preferences puts the revenue function of tariffs at risk.

Moreover, this dissertation concludes that the further development of the WTO negotiations with regard to tariffs and customs valuation should promote more flexibility to use NAV types of tariffs instead of AV, as well as to link the trade liberalization agenda of less developed countries with the revenue function of tariffs. The WTO, however, is a Member-driven organization and the flexibilization expected from WTO Members in this regard would thus only be possible if there is a consensus among the Members regarding the challenges posed by the proliferation of AV tariffs for all types of goods and economies.

The results of this dissertation should be of direct interest to several Customs administrations, such as those WCO Members. These Customs administrations face daily challenges in the field of taxation when applying AV tariffs and WTO customs valuation rules. In addition, the dissertation results may be considered in academic papers prepared by the 200 members and affiliates of the International Network of Customs Universities (INCUI), which supports research in Customs matters, and others such as the Society of International Economic Law (SIEL) and International Customs Law Association (ICLA).

Finally, the results of the present research should be useful and interesting for international trade and tax academic researchers, legal practitioners, policy experts, and policy makers who are active in the field of international trade, international economic law and international taxation.

3. Activities and products

This study will result in a published book. It will, as a result, be publicly available for consultation at libraries and for purchase by academic researchers, legal practitioners, policy experts, policy makers, governmental officials, international civil servants, and other stakeholders or persons interested in the challenges posed by tariffs and WTO customs valuation rules. As was mentioned already, this dissertation presents a number of considerations and proposals concerning the understanding on the use of different tariff types, the complexities of WTO customs valuation rules, WTO customs valuation disputes, the interpretation of the existing relevant norms of WTO law, and ideas for the possible further development of WTO law in the area of tariffs and valuation.

The author thus hopes that at least some of these outcomes and proposals will influence the policies pursued by WTO and WCO Members and their relevant authorities when deciding about the suitable tariff type and flexibility rules for groups of goods and/or countries. The author also anticipates that his considerations and proposals will be considered by private consulting companies, industry associations and business corporations.

As concluded at the end of the study, more research is necessary to understand various aspects of tariffs types for revenue purposes, the flexibility issues as well as the options available to address the challenges from a tax planning and services perspective. Finally, of

course, I am planning to be actively involved into the ongoing discussions and research on this fascinating topic.

4. Innovation

Although there are a number of reports, research papers and publications on tariffs and customs valuation, their effects on international trade in goods, and the implications of WTO law for their regulation, a critical legal dissertation on the need to revisit the tariffs theory and the complexities associated with the WTO customs valuation rules has not been undertaken to date.

The present dissertation thus contributes to the existing body of literature and research on this important topic. In fact, this dissertation, through its analysis of tariff types and WTO customs valuation rules, together with an examination of historical documents and the WTO disputes, helps to clarify the overall “picture” of the alternatives for tariffs.

Moreover, the study contributes to exploring the possible ways of using tariffs and further linking the WTO objective of trade liberalization with the challenges such as fiscal stability and predictability for long-term planning. In this respect, the dissertation presents several innovative recommendations and proposals.

5. Planning and implementation

The author hopes that the results of this dissertation will be considered in the ongoing discussions for tariffs and revenue taking place in the WTO, WCO, IMF, World Bank, regional development banks, customs unions, and other relevant bodies. The dissertation results may also be considered by the panelists, Appellate Body Members and WTO Secretariat staff dealing with tariffs. This would be particularly useful when a dispute related to the use of tariffs and customs valuation is brought to the WTO dispute settlement system by a WTO Member.

The author also expects that the research results will be considered in upcoming reports and papers prepared and issued by Members of academic bodies such as the International Network of Customs Universities (INCU), the Society of International Economic Law (SIEL) and International Customs Law Association (ICLA).

The author will endeavor to promote the results of this study among the customs and international trade community, academics and practitioners, as well as to participate actively in the on-going discussions on legal and economic issues related to tariffs and customs valuation. This will be done through further publications on the topic, participation in scientific conferences, roundtables, and other meetings organized by universities, international organizations, scientific societies, NGOs, and other organizations active in the field.