

1	ARTICLE 15	1
1.1	Text of Article 15	1
1.2	Article 15.1	2

(b) "count"

(c) "produ"

2. In this Agree

(a) "identi
characteristic
goods otherw

(b) "simila
characteristic
functions and
and the existi
whether good

(c) the ter
goods which
plans and ske
Article 8 beca

(d) goods
produced in t
or range of goods produced by a par tic
similar goods.

4. For the purposes of this Agree

(a) they are office

- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person ;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

5. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this Agreement if they fall within the criteria of paragraph 4.

1.2 Article 15.1

1.2.1 "for the purpose of levying ad valorem duties"

1. In *Thailand - Customs Valuation*, Thailand argued that the 2003-2006 criminal charges (the "Charges") filed by the Public Prosecutor against Phillip Morris Thailand Limited (PMTL) were not covered by the CVA. Thailand submitted that the Charges did not satisfy the second element of Article 15.1(a), as they did not result in the levying of customs duties on imported goods but could only result in criminal fines and penalties. The Panel viewed the terms "for the purpose of levying duties" in the context of Article 15.1(a) as "embracing any determination of the value of imported goods for the purpose of determining the amount of duties due on those imported goods."¹ The Panel considered that the applicability of the Charges did not turn on the meaning of the term "levying",² and pointed out that "Thailand's interpretation of Article 15.1(a) is contradicted by various provisions of the CVA which establish that customs duties are not necessarily 'levied on the border', either in physical or temporal terms."³

2. In *Thailand - Customs Valuation* (WT/DS293/Organized by the Secretariat) (2006) paras. 12.3 (e)1M13.3 (i)45-23.667 -2.56 Td (2.0.006 Tc -0.011 Tw 5.787