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Committee on Customs Valuation

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NOTIFICATIONS UNDER ARTICLE 22 OF THE AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

TURKEY

The following communication, dated 26 April 2000, has been received from the Permanent Mission of Turkey.

The Permanent Mission of the Republic of Turkey to the World Trade Organization has the honour to refer to its notifications G/VAL/N/1/TUR/1 and VAL/1/Add.1 in conformity with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, and also has the honour to inform that the new Turkish Customs Law No. 4458 has entered into force as of 5 February 2000 (Turkish Official Gazette No. 23866 dated 4 November 1999).

In this connection, the Permanent Mission transmits herewith to the World Trade Organization, in conformity with the provisions of Article 22 of the Agreement on Implementation of the Article VII of the General Agreement on Tariffs and Trade, this notification pertaining to customs valuation provisions of the new Law stated above.

TURKISH CUSTOMS LAW No. 4458
(In force as of 5 February 2000)

CHAPTER THREE
Value of Goods for Customs Purposes

ARTICLE 23

The provisions of this Chapter shall determine the customs value of the goods for the purposes of applying the Customs Tariff and non-tariff measures laid down on specific fields relating to trade in goods.

ARTICLE 24

1. The customs value of imported goods shall be the transaction value, that is, the price actually paid or payable for the good when sold for export to Turkey, adjusted, where necessary, in accordance with Articles 27 and 28, provided:

- (a) that there are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which:
 - are imposed or required by the laws and by-laws of Republic of Turkey or by the public authorities designated by them,
 - limit the geographical area in which the goods may be resold,
 - do not substantially affect the value of the goods;
- (b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) that any part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, an addition may be made to the prices of goods actually paid or payable in accordance with Article 27;
- (d) that the buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable as customs value under paragraph 2.

2.

- (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value as unacceptable. In such cases, where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the declarant or otherwise, the customs administration has grounds for considering that the relationship influenced the price, it shall communicate its ground to the declarant in writing. The declarant shall reserve the right to respond within the prescribed time limit.
- (b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with paragraph 1 wherever the declarant demonstrates that such value closely approximates to one of the following occurring at or about the same time:

- the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods sold for export to Turkey;
- the customs value of identical or similar goods, as determined under Article 25(2)(c);
- the customs value of identical or similar goods, as determined under Article 25(2)(d).

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 27 and costs incurred by the seller in sales in which he and the buyer are not related and where such costs are not incurred by the seller in sales in which he and the buyer are related.

- (c) The values set forth in subparagraph (b) are to be used at the initiative of the declarant and only for comparison purposes. Substitute values may not be established under the said subparagraph.

3.

- (a) The price actually paid or payable is the total payment made or should be made by the buyer to or for the benefit of the seller for the imported goods. This price includes all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller. The payments may take the form of a transfer of money and they may be made by the way of letters of credit or negotiable instruments or may be made directly or indirectly.
- (b) Activities, including marketing activities, undertaken by the buyer on his own account, other than those for which an adjustment is provided as per Article 27, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller. Their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

ARTICLE 25

1. Where the customs value cannot be determined under Article 24, it is to be determined by proceeding sequentially through subparagraphs (a), (b), (c) and (d) of paragraph 2. It is only when such value cannot be determined under a particular subparagraph that the provisions of the next subparagraph in a sequence established by virtue of this paragraph shall be applied. The order of application of subparagraphs (c) and (d) shall be reversed on condition that the written request of the declarant is deemed appropriate by the customs administration.

2. The customs value as determined under this Article shall be:

- (a) the transaction value of identical goods sold for export to Turkey and exported at or about the same date as the good being valued;
- (b) the transaction value of similar goods sold for export to Turkey and exported at or about the same date as the goods being valued;
- (c) the value based on the unit price at which the imported good for identical or similar imported goods are sold within Turkey in the greatest aggregate quantity to persons not related to the sellers;

the computed value, consisting of the sum of the cost or value of materials and fabrication or other processing employed in producing the imported goods, and an amount for normal profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Turkey, and the other costs or values of the items referred to in Article 27(1)(e).

3. Any further methods and principles for the application of paragraph 2 above shall be determined in accordance with regulation.

ARTICLE 26

1. Where the customs value of imported goods cannot be determined under Articles 24 or 25, it shall be determined on the basis of data available in Turkey, using reasonable means consistent with the principles and general provisions of:

- (a) the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade;
- (b) Article VII of the General Agreement on Tariffs and Trade;
- (c) the provisions of this Chapter.

2. No customs value shall be determined under paragraph 1 on the basis of:

- (a) the selling price within Turkey of goods produced in Turkey;
- (b) a system which provides for the acceptance by the customs administrations of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with Article 25(2)(d);
- (e) prices for export to a country from Turkey;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values.

ARTICLE 27

1. In determining the customs value under Article 24 the following additions shall be made to the price actually paid or payable for the imported goods:

- (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
 - (i) commissions and brokerage, except buying commissions;
 - (ii) the cost of packages which are treated as being one, for customs purposes, with the goods in question;

- (iii) the cost of packing, including the costs of labour or materials;
 - (b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
 - (i) materials, components, parts and similar items incorporated in the imported goods;
 - (ii) tools, dies, moulds and similar items used in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods;
 - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;
 - (c) royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods to be valued, to the extent that such royalties and fees are not included in the price actually aid or payable;
 - (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
 - (e) the costs of transport and insurance formalities of the imported goods, carried out up to the port or place of entry of Turkey.
2. Additions to the price actually paid or payable to be made under this Article shall be on the basis of objective and quantifiable data.
3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.
4. In this Chapter, the term "buying commissions" means fees paid by an importer to his agent for the service of representing him abroad in the purchase of the goods being valued.
5. In determining the customs value of the imported goods:
- (a) payments for the right to reproduce the imported goods in Turkey, and
 - (b) payments made by the buyer for the right to distribute or to resell the imported goods provided that no condition of the sale for export to Turkey of the goods exists, shall not be considered within the extent of paragraph 1(c) or shall not be added to the price actually paid or payable for the imported goods.

ARTICLE 28

Provided that they are shown separately from the price actually paid or payable, the following shall not be included in the customs value:

- (a) charges for the transport of goods and insurance after their arrival at the place of introduction into the Customs Territory of the Republic of Turkey and into the customs territories of the customs union to which Turkey is a party by agreements;

- (b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation of imported goods such as industrial plant, machinery or equipment;
- (c) charges for interest incurred by the buyer under a financing arrangement relating to the purchase of imported goods;
- (d) charges for the right to reproduce imported goods in Turkey;
- (e) buying commissions;
- (f) import duties payable in Turkey by reason of the importation or sale of the goods.

Whether the finance is provided by the seller or another person shall not be considered under circumstances mentioned in subparagraph (c). Nevertheless it is obligatory that the financing arrangement has been made in writing, and where required, the buyer must demonstrate that:

- such goods are actually sold at the price declared as the price actually paid or payable, and
- the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.

ARTICLE 29

Specific rules and principals may be laid down in accordance with regulation to determine the customs value of carrier media for use in data processing equipment and bearing data or instructions.

ARTICLE 30

The primary basis for customs value of goods shall be declared as Turkish Lira. The foreign currencies on invoices and other documents shall be converted to Turkish Lira over the rate of exchange of the Central Bank of the Republic of Turkey, which is current on the date the customs debt occurs.

ARTICLE 31

1. The provisions of this Chapter shall not affect the specific provisions regarding the determination of the value for customs purposes of goods released for free circulation after being assigned a different customs-approved treatment or use.

3. By way of derogation from Articles 24, 25 and 26, the customs value of perishable goods usually released on consignment may, at the request of the declarant, be determined under simplified rules drawn up by the customs administration.
