

**INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE
AGREEMENT ON CUSTOMS VALUATION**

Checklist of Issues

JORDAN

With reference to the Decision on Checklist of Issues, please find below the answers to the points contained in the checklist.

1. (a) Sales between related persons:

(i) Are sales between related persons subject to special provisions?

Article 28 of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with sales between related persons. Such Article provides for the following:

A. The customs value for goods imported into the Kingdom shall be the transaction value, that is the price actually paid or payable for the goods when sold for exportation to the Kingdom, subject to the provisions of paragraph (F) of this Article and the following conditions:

1. ...
2. ...
3. ...

4. The buyer and seller shall not be related. If they are related, the transaction value shall be accepted for Customs purposes, according to the provisions of paragraphs (C) and (D) of this Article.

B. Natural or juridical persons are considered to be related only if:

1. they are officers or directors of one another;
2. they are legally recognized business partners;
3. they are employer and employee;
4. if another person owns, or holds or controls directly or indirectly not less than 5% or the voting stock or shares of both of them;
5. one of them controls the other directly or indirectly;
6. both of them are directly or indirectly controlled by a third person;
7. they jointly control a third person directly or indirectly;
8. they are members of the same family up to the third degree.

C.1. In determining whether the transaction value is acceptable for the purposes of paragraph (A) of this Article, the fact that the buyer and seller are related within the meaning provided in paragraph (B) shall not in itself be grounds for regarding the transaction value as unacceptable. In such a case, the Department shall examine the circumstances surrounding the sale and the transaction value shall be accepted provided that the relationship did not influence the price.

2. If the Department considers on the basis of information available to it, that there are grounds for considering that the relationship has influenced the price, the Department shall communicate its grounds to the importer, and the importer shall be given sufficient time to reply. If the importer so requests, the communication shall be in writing.

D. The value of a sale transaction between related persons shall be accepted, and the goods shall be valued according to the provisions of paragraph (A), if the importer proves that the [declared] value closely approximates one of the following test (standard) values for goods which are imported at the same time to the extent possible:

1. The transaction value of identical or similar goods sold for exportation to the Kingdom, and to buyers who are not related to the sellers.
2. The customs value of identical or similar goods, determined according to the provisions of paragraph (C) or paragraph (D) of Article (30).

E.1. In applying the tests mentioned in paragraph (D) of this Article, due account shall be taken of demonstrated differences in commercial levels, quantity levels, and the costs provided for in paragraph (F) of this Article, and the costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.

2. The tests mentioned in this paragraph shall be used at the initiative of the importer and only for comparison purposes, and may not be adopted as substitute values.

(ii) Is the fact of intercompany prices prima facie considered as grounds for regarding the respective prices as being influenced?

Article 28/C of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with such. It provides for the following:

C.1. In determining whether the transaction value is acceptable for the purposes of paragraph (A) of this Article, the fact that the buyer and seller are related within the meaning provided in paragraph (B) shall not in itself be grounds for regarding the transaction value as unacceptable. In such a case, the Department shall examine the circumstances surrounding the sale and the transaction value shall be accepted provided that the relationship did not influence the price.

2. If the Department considers on the basis of information available to it, that there are grounds for considering that the relationship has influenced the price, the Department shall communicate its grounds to the importer, and the

importer shall be given sufficient time to reply. If the importer so requests, the communication shall be in writing.

(iii) What is the provision for giving the communication of the above mentioned grounds in writing if the importer so requests (Article 1.2(a))?

Article 28/C of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with such. It provides for the following:

C.1 In determining whether the transaction value is acceptable for the purposes of paragraph (A) of this Article, the fact that the buyer and seller are related within the meaning provided in paragraph (B) shall not in itself be grounds for regarding the transaction value as unacceptable. In such a case, the Department shall examine the circumstances surrounding the sale and the transaction value shall be accepted provided that the relationship did not influence the price.

2. If the Department considers on the basis of information available to it, that there are grounds for considering that the relationship has influenced the price, the Department shall communicate its grounds to the importer, and the importer shall be given sufficient time to reply. If the importer so requests, the communication shall be in writing.

(iv) How has Article 1.2(a) been implemented?

Article 28/D, E of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with such. They provide for the following:

D. The value of a sale transaction between related persons shall be accepted, and the goods shall be valued according to the provisions of paragraph (A), if the importer proves that the [declared] value closely approximates one of the following test (standard) values for goods which are imported at the same time to the extent possible.

E.1. In applying the tests mentioned in paragraph (D) of this Article, due account shall be taken of demonstrated differences in commercial levels, quantity levels, and the costs provided for in paragraph (F) of this Article, and the costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.

2. The tests mentioned in this paragraph shall be used at the initiative of the importer and only for comparison purposes, and may not be adopted as substitute values.

(b) Price of lost or damaged goods:

Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?

There are no special provisions relating to such in the current Law on Customs No. 20 of the year 1998, nor the Law Amending the Customs Law No. 16 of the year 2000. However, these provisions are currently adopted by the Customs Department as a

practice, and they will be included in the instructions to be issued for implementing the Law.

2. How has the provision of Article 4 to allow the importer an option to reverse the order of application of Articles 5 and 6 been implemented?

Article 29 of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with such. It provides for the following:

If the customs value is indeterminable according to the provisions of Article (28), it shall be determined by successively applying the methods stated in paragraphs (A)-(D) of Article 30 until obtaining the first result. However, paragraph (D) of Article (30) may be applied before paragraph (C) thereof, upon the importer's request.

3. How has Article 5.2 been implemented?

Article 30/C/2 of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with such. It provides for the following:

The customs value shall be:

A. ...

B. ...

C.1. ...

2. If neither the imported goods nor the identical or similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall be, subject to the provisions of sub-paragraph (1) of this paragraph, based on the unit price at which the imported goods or identical or similar imported goods are sold in the Kingdom, in the same conditions as imported, at the earliest date after importing the goods being valued but before the expiration of 90 days after such importation ...

4. How has Article 6.2 been implemented?

Article 30/D/2 of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with such. It provides for the following:

The customs value shall be:

A. ...

B. ...

C. ...

D.1. ...

2. It shall not be required of any person not resident in the Kingdom to submit for examination, or to allow access to, any account or other records for the purposes of determining a computed value. However, the Department may for the purposes of determining the customs value under the provisions of this Article, verify information provided by the producer of the goods in another country with the producer's approval, provided sufficient advance notice is given to the government of the country in question and that the government does not object to the investigation.

5. (a) What provisions have been made for making value determinations to Article 7?

Article 31 of the Customs Law No. 20 of the year 1998, as amended by the Customs Law No. 16 of the year 2000 deals with such. It provides for the following:

A. If the customs value is not determinable according to the provisions of Articles (28, 29, 30) of this Law, it shall be determined according to the data available in the Kingdom, by using reasonable methods consistent with the provisions of the abovementioned Articles. The customs value shall not be determined on bases of the following:

1. the selling price in the Kingdom for locally produced goods;
2. the higher value among several values;
3. the price of the goods on the domestic market of the country of exportation;
4. the cost of production, other than the computed sum determined for identical or similar goods in accordance with the provisions of paragraph (D) of Article (30) of this Law;
5. the price of goods sold for exportation to a third country other than Jordan;
6. arbitrary or fictitious values;
7. the minimum customs value ...

I. Other provisions and conditions necessary for the implementation of Articles (28), (29), (30) and (31) of this Law shall be determined according to Instructions issued by the Director for this purpose.

(b) What is the provision for informing the importer of the customs value determined under Article 7?

Article 31/B of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with such. It provides for the following:

B. Upon request thereof, the importer shall be advised in writing about the methods used in customs valuation pursuant to the provisions of paragraph (A) of this Article.

(c) Are the prohibitions found in Article 7.2 delineated?

Article 31/A of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with such. It provides for the following:

A. If the customs value is not determinable according to the provisions of Articles (28, 29, 30) of this Law, it shall be determined according to the data available in the Kingdom, by using reasonable methods consistent with the provisions of the abovementioned Articles. The customs value shall not be determined on bases of the following:

1. the selling price in the Kingdom for locally produced goods;
2. the higher value among several values;
3. the price of the goods on the domestic market of the country of exportation;
4. the cost of production, other than the computed sum determined for identical or similar goods in accordance with the provisions of paragraph (D) of Article (30) of this Law;
5. the price of goods sold for exportation to a third country other than Jordan;
6. arbitrary or fictitious values;

7. the minimum customs value.

6. How have the options found in Article 8.2 been handled? In the case of f.o.b. application, are ex-factory prices accepted?

Article 28/F/7, 8 of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with such. These Articles provide for the following:

F. In determining the customs value according to the provisions of paragraph (A) of this Article, the following costs shall be added to the extent that they are not included in the price actually paid or payable for the imported goods:

1. ...
2. ...
3. ...
4. ...
5. ...
6. ...
7. the cost of transport of the imported goods to the border entry point;
8. loading, unloading, handling and insurance charges associated with the transport of the imported goods to the border entry point.

7. Where is the rate of exchange published, as required by Article 9.1?

The Central Bank of Jordan publishes the exchange rates in daily newspapers, as well, the exchange rate of the Jordanian Dinars is communicated to the Customs Department through an official letter. The Customs Department then communicates these rates to different customs departments and houses.

8. What steps have been taken to ensure confidentiality, as required by Article 10?

Article 31/I of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 deals with such. It provides for the following:

I. For the purposes of customs valuation, the Department shall not disclose any information that is confidential by nature or which is submitted on a confidential basis without written permission of the person or entity submitting it, except for information the disclosure of which is requested by Judicial authorities.

Also, Article (175) of the Customs Law No. 20 for the year 1998 generally addressed confidentiality of information as follows:

A. Any person charged officially with implementing this Law shall consider as confidential, and shall handle accordingly, all documents, information, statements and official papers relating to this Law or to the implementation of its provisions.

B. The Department may exchange information with ministries, government agencies, departments and official entities for the purpose of implementing the provisions of this Law and other Laws in force.

9. (a) What rights of appeal are open to the importer or any other person?

This issue was not addressed in the Articles specifically dealing with the Customs Value, but was rather dealt with in Article 80 of the Customs Law No. 20 of the year 1998, which provides for the following:

A. A special committee of three senior officials shall be formed by the Minister and shall look into disputes regarding the value, origin and specification of goods and the applicable tariffs thereupon.

B. Disagreements between the persons concerned and the Department shall be referred to the said committee which may seek the assistance of those with expertise and technical competence.

C. The Director's decision shall be issued upon the committee's recommendation.

D. The Director's decisions may be challenged before the Customs Court within 15 days from the notification date.

E. The goods may be delivered before settlement of the disagreements mentioned in paragraph (A) of this Article. However, samples of the goods in question shall be kept with the Department according to the terms, procedures, and guarantees specified by the Director.

F. Customs duties and other fees and taxes which are not disputed shall be levied as revenue, while a deposit or a bank guarantee shall be placed against disputed duties and other fees and taxes until settlement of the dispute.

(b) How is he to be informed of his right to further appeal?

Article 80/ of the Customs Law No. 20 of the year 1998, as amended by Customs Law No. 16 of the year 2000 provides for the following:

A. A special committee of three senior officials shall be formed by the Minister and shall look into disputes regarding the value, origin, and specification of goods and the applicable tariffs thereupon.

B. Disagreements between the persons concerned and the Department shall be referred to the said committee which may seek the assistance of those with expertise and technical competence.

C. The Director's decision shall be issued upon the committee's recommendation.

D. The Director's decisions may be challenged before the Customs Court within 15 days from the notification date.

10. Provide information on the publication, as required by Article 12, of:

(a) (i) the relevant national laws;

The Customs Law and all other national laws are published in the Official Gazette.

(ii) the regulations concerning the application of the Agreement;

Customs regulations (instructions) are published in the Official Gazette.

(iii) the judicial decision and administrative rulings of general application relating to the Agreement;

Judicial decisions and administrative rulings of general application are published in the Official Gazette.

(iv) general or specific laws being referred to in the rules of implementation of application.

General or special laws referred to in applying the agreement are published in the Official Gazette.

(b) Is the publication of further rules anticipated?

All provisions related to the Interpretative Notes to the Agreement or any other related provisions that are not covered by the Customs Law No. 20 of the year 1998, shall be applied through the Customs Instructions No. ().

11. Questions concerning Article 13:

(a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?

This provision was included in paragraphs e and f of Article 80 of the Customs Law No. 20 of the year 1998 as amended by Customs Law No. 16 of the year 2000, which provide for the following:

E. The goods may be delivered before settlement of the disagreements mentioned in paragraph (A) of this Article. However, samples of the goods in question shall be kept with the Department according to the terms, procedures, and guarantees specified by the Director.

F. Customs duties and other fees and taxes which are not disputed shall be levied as revenue, while a deposit or a bank guarantee shall be placed against disputed duties and other fees and taxes until settlement of the dispute.

Also such provision is included in Article 83 of the said Law regarding the withdrawal of goods against guarantee. Article 83 stipulates that:

Goods may be withdrawn by those liable for payment, before payment of duties and taxes, but against a bank or cash guarantee and at the terms and rules specified by the Director.

(b) Have additional explanations been laid down?

Yes, all terms, procedures and guarantees specified by the Director and referred to in paragraph (e) of Article (80) of the Customs Law No. 20 of 1998 are issued in the form of declarations (bylaws or administrative rulings).

12. Questions concerning Article 16:

- (a) **Does the respective national legislation contain a provision requiring customs authorities to give an explanation in writing as to how the customs value was determined?**

Paragraph (B) of Article 31 of the Customs Law No. 20 of the year 1998 as amended by Customs Law No. 16 of the year 2000 provides for the following:

B. Upon request thereof, the importer shall be advised in writing about which method of customs valuations used pursuant to the provisions of paragraph (A) of this Article.

- (b) **Are there any further regulations concerning an above mentioned request?**

The Customs Instructions No. () [not issued yet] regarding the determination of the customs value where it is not determinable pursuant to Articles (28, 29, 30) contains such provision in paragraph (c) thereof. This paragraph stipulates the following:

Where the importer requests to be notified of the reasons in writing, he/she shall be notified on the form prepared for this purpose.

13. How have the Interpretative Notes of the Agreement been included?

The Customs Instructions No. () of the year 2000 contain the interpretative notes to the Agreement. However, some of these notes were included in the articles dealing with the customs value provided for in the Customs Law No. 20 of 1998. These Articles are:

- Item (2) of the general note to the interpretative notes was incorporated in Article (29) of the Law.
- Article (29) of the Law provides: if the customs value is indeterminable according to the provisions of Article (28), it shall be determined by successively applying the methods stated in paragraphs (A-D) of Article 30 until obtaining the first result. However, paragraph (D) of Article (30) may be applied before paragraph C thereof, upon the importer's request.

14. How have the provisions of the Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods been implemented?

This decision was included in the Customs Instructions No. () of the year 2000 in Article (6) thereof. [These instructions are to be issued soon.]

15. For those countries applying paragraph 2 of the Decision on the Valuation of Carrier Media Bearing Software for Data-Processing Equipment, how have the provisions of this paragraph been implemented?

This decision is included in the Customs Instructions No. () of the year 2000 in Article (5) thereof. [These instructions are to be issued soon.]
