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Committee on Customs Valuation

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT ON CUSTOMS VALUATION

Checklist of Issues

RWANDA

The following communication, dated 28 December 2011, is being circulated at the request of the Delegation of the Republic of Rwanda.

"As required of all Members of the WTO, we would like to submit notification of our country's national legislation concerning the implementation of Article VII of the GATT 1994, and response to the Organization's Checklist of issues. Also we would like to inform you that our Customs Department began applying the WTO Agreement on Customs Valuation (ACV) in January 2004."

ANNEX

1. Questions concerning Article 1:

(a) Sales between related persons:

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

Yes, as stipulated in EACCMA, Fourth Schedule, and paragraph 2.2(a).

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

No, intercompany prices itself shall not be a ground for regarding the transaction value as unacceptable, in such cases the circumstances surrounding the sale shall be examined and transaction value shall be accepted providing that the relationship did not influence the price.

(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))?

As stipulated in EACCMA in its Fourth Schedule paragraph 2(2)(a) communication to the importer is made in writing.

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

The provisions of Article 1.2(b) have been catered for under EACCMA currently used in paragraph 2(2)(b) of the Fourth Schedule.

(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 for damaged goods but practical arrangement are conducted by an impartial team of customs officers and the importer in appreciating and being flexible in determining the customs value putting in consideration the percentage of the damaged goods.

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?

This has been implemented under EACCMA 2005 paragraph 5 of the Fourth Schedule and therefore applicable in Rwanda.

3. How has Article 5.2 been implemented?

This Article has been implemented in our national legislation as stipulated under EACCMA 2005 paragraph 6 of the Fourth Schedule.

4. How has Article 6.2 been implemented?

The Article is being implemented in accordance to paragraph 7 of the Fourth Schedule.

5. Questions concerning Article 7:

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

Under paragraph 8 of the Fourth Schedule, the value is to be determined using reasonable means consistent with WTO Agreement on Customs Valuation and on the basis of data also available in the customs database (test value) for guidance to check the credibility of the declared value.

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

As stated in paragraph 8(3) of the Fourth Schedule "if the importer so requests, he/she shall be informed in writing of the customs value determined under this paragraph and the method used to determine such value".

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

Yes the prohibitions found in the Article 7.2 are delineated.

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?

In Rwanda, calculation of taxes is based on CIF value from first port of entry and therefore the adjustment under 8(2) is inclusive in the customs value.

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

The exchange rate is published on weekly basis from the National Bank of Rwanda.

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

Section 7(c) provides for protection of confidential information except if required to do so as a witness in a court of law, or with approval of the authority.

9. Questions concerning Article 11:

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

Any person or an importer who is directly affected by the decision of the Commissioner has a right to lodge an application for review of the decision and if the case is not settled he has the right to appeal to an independent tax appeals tribunal or high court or commercial courts.

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

Section 229(4) of the East African Community Customs Management Act, provides that the Commissioner has to communicate his or her decision within a period not exceeding 30 days from the receipt of the application.

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

(a) (i) The relevant national laws:

Article 201 of the Rwandan constitution provides that Laws and regulations can only enter into force after they have been duly published in the official gazette.

(ii) The regulations concerning the application of the Agreement:

Application of the Agreement is available in the East African Community Customs Management Act and domesticated and published in the official gazette after approval and ratification by the Rwandan Parliament.

(iii) The judicial decision and administrative ruling of general application relating to the Agreement:

Available within the East African Customs Management Act.

(iv) General or specific laws being referred to in the rules of implementation or application:

Available within the Customs Services Department.

(c) Is the publication of further rules anticipated? Which topics would they cover?

Yes. It will cover post clearance audit, risk management and information technology.

11. Questions concerning Article 13:

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

This has been covered under Section 108.(6). Release may be granted at the request of the importer after the importer provides sufficient guarantee in the form of surety, a deposit or some other appropriate security as the proper officer may be determined to secure the ultimate payment of customs duties for which the goods may be liable.

(b) Have additional explanations been laid down?

Yes.

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?

Yes, Section 108(4) of the East African Customs and Transfer Tax Management Act.

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

No.

13. How have the interpretative notes of the Agreement been included?

The interpretative notes of the Agreement have been included and form an integral part of the Fourth Schedule and paragraphs (Part I) of the Fourth Schedule are read and applied in conjunction with their respective notes (Part II) of the Fourth Schedule.

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

Interest charges do not form part of the value for customs. This has been adopted in our national legislation as per Section 108(3) East African Customs and Transfer Tax Management Act.

- 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?**

Valuation of Carrier Media Bearing Software, the transaction value is the basis of valuation.
