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Committee on Customs Valuation

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**NOTIFICATIONS UNDER ARTICLE 22.2 OF THE AGREEMENT  
ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL  
AGREEMENT ON TARIFFS AND TRADE 1994**

JAPAN

The following submission, dated 6 September 2013, is being circulated at the request of the Delegation of Japan.

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Pursuant to the paragraph 2 of Article 22 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, the Government of Japan is pleased to notify the amendments to Customs Tariff Law and Cabinet Order for Enforcement of Customs Tariff Law of Japan in part where it concerns customs valuation.

The amendments are attached in English and should be considered as an unofficial translation of the original document. The amendments took effect on 1 April 2013.

For the sake of clarity, the track changes from Japan's previous provisions which were circulated on 4 November 1981 (VAL/2/Rev.1/Add.8) and on 22 November 1995 (G/VAL/N/1/JPN/1) respectively are shown in the attached documents.

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JAPAN

I. Customs Tariff Law

(Provisional Translation)

(Principle for Determining the Customs Value)

*Article 4*

1. The value for customs purposes of imported goods (hereinafter referred to as "customs value") shall, except where the first sentence of paragraph 2 applies, be the price actually paid or payable by the buyer to or for the benefit of the seller for the imported goods in the import transaction **(excluding the buyer who does not have its domicile, residence, principal office, branch office, other offices, place of business or other equivalent places; the same to apply hereinafter)** relating to the goods (excluding the amounts of customs duty or any other charges reduced or refunded in the country of exportation at the time of their exportation), plus the cost of transport, etc., as enumerated below, to the extent that they are not included in

the price actually paid or payable for the goods (hereinafter referred to as the "transaction value"):

- (1) (No change)
  - (2) (No change)
    - (a) brokerage and commissions, except **commissions for the services of the purchase of the imported goods paid to a person who acts as an agent on behalf of the buyer** ~~buying commissions~~;
    - (b) (No change)
    - (c) (No change)
  - (3) (No change)
  - (4) the value of the use of patent, design or trade mark right and such similar rights as may be prescribed by a Cabinet Order (excluding the right to reproduce the imported goods in Japan), related to the imported goods, that the buyer must pay, directly or indirectly, **for as a condition of the import transaction relating to the imported goods in the light of a condition of such a transaction and other circumstances surrounding it**; and
  - (5) (No change)
2. (No change)
- (1) (No change)
  - (2) (No change)
  - (3) (No change)
  - (4) when the buyer and seller are related (i.e. when they are officers or directors of one another's businesses or when there is such relationship between ~~them the buyer and seller~~ as may be prescribed by a Cabinet Order; the same to apply hereinafter in this sub-paragraph and in paragraph 1 of Article 4-3) and the relationship is considered to have influenced the transaction value of the imported goods.

Provided, however, that the first sentence of this paragraph shall not apply to cases which come under sub-paragraph (4) above but in which the importer of the imported goods demonstrates, in accordance with the provisions of a Cabinet Order, that the transaction value of the imported goods is the same as, or closely approximates to, the customs value of identical or similar goods (exported to Japan on or about the same date as the imported goods and produced in the country of production of the imported goods; the same to apply hereinafter in this paragraph), calculated in accordance with the provisions of the preceding paragraph or Article 4-3 (**Determination of Customs Value on the Basis of Domestic Selling Price or Cost of Production**), with appropriate adjustment made, in accordance with the provisions of a Cabinet Order, to take account of price difference between the imported goods and the identical or similar goods arising from differences in commercial level, quantity or cost of transport, etc., as enumerated in any of the sub-paragraphs of the said paragraph, and such other costs and charges as may be prescribed by a Cabinet Order. Where the customs value is calculated under the provisions of the said paragraph, there shall be used the customs value of goods identical or similar to the imported goods in an import transaction between a buyer and seller who are not related in terms of the provision of sub-paragraph (4).

3. **When a person entrusted (hereinafter in this paragraph referred to as "trustee") by a person in Japan (hereinafter in this paragraph referred to as "entruster") processes or assembles (hereinafter in this paragraph referred to as "processing, etc.") raw materials or other materials provided, directly or indirectly, by the entruster, and, based on the transaction between the entruster and the trustee, in which the entruster will acquire the products produced through the processing, etc., when the products arrive in Japan, the two preceding sub-paragraphs shall be applied, under which the transaction shall be deemed as the import transaction, the entruster shall be deemed as the buyer, the trustee shall be deemed as the seller, and the price actually paid or payable for the processing, etc. shall be deemed as the price actually paid or payable for the imported goods. In this case, "brokerage and commissions, except commissions for the services of the purchase of the imported goods paid to a person who acts as an agent on**

behalf of the buyer" in (a) of sub-paragraph (2) of paragraph 1 shall be deemed to be replaced with "commissions."

*Article 4-2*

(No Change)

(Determination of Customs Value on the Basis of  
Domestic Selling Price or Cost of Production)

*Article 4-3*

1. When the customs value of the imported goods cannot be calculated under the provisions of the preceding two Articles and if there is available a domestic selling price of the imported goods (including the domestic selling price of the imported goods where they have been delivered from the Customs with the approval of the Director-General of Customs under the provisions of paragraph 1 of Article 73 (Delivery of goods prior to import permit) of the Customs Law; the same to apply hereinafter in this paragraph) or a domestic selling price of goods identical or similar to the imported goods (produced in the country of production of the imported goods; the same to apply hereinafter in this paragraph), the customs value of the imported goods shall be the price as prescribed in any of the following sub-paragraphs. (Provided, however, that sub-paragraph (2) shall apply only when sub-paragraph (1) cannot be applied and the importer of the imported goods requests application of the provision of sub-paragraph (2)) **to the Director-General of Customs:**

(1) If there is available the domestic selling price of the imported goods or of identical or similar goods, sold domestically to persons who are not related to the persons from whom they buy such goods, the same in nature and condition as those goods at the time of the import declaration (or at the time as prescribed in any of the sub-paragraphs of Article 4 (~~Date~~ ~~Exceptional date~~ of determination of object for duty assessment) of the Customs Law, in the case of the goods as enumerated in any of those sub-paragraphs; hereinafter in this sub-paragraph and in the next sub-paragraph referred to as "the date of determination of object for duty assessment") on or about the date of determination of object for duty assessment with regard to the imported goods, the customs value shall be such domestic selling price, subject to deductions for the following commissions, etc.:

- (a) (No change)
- (b) (No change)
- (c) the customs duties and other charges paid in Japan on the imported goods or the identical or similar goods sold in the domestic market;

(2) (No change)

2. When the customs value of the imported goods cannot be calculated under the provisions of the preceding paragraph and if the cost of production of the imported goods can be confirmed **(provided that the imported goods arrive in Japan based on the transaction of the imported goods between the person who intends to import the imported goods and the producer of the imported goods; the same to apply hereinafter in the next paragraph)**, the customs value of the imported goods shall consist of the cost of production of the imported goods, usual profit and general expenses in connection with sales for export to Japan of imported goods of the same class or kind produced in the country of production of the imported goods, and cost of transport, etc., of the imported goods to the port of importation.

3. When the cost of production of the imported goods can be confirmed and if the importer of the imported goods so requests **to the Director-General of Customs**, the customs value of the imported goods shall be calculated under the provisions of the preceding paragraph, prior to the application of paragraph 1 above.

*Article 4-4*

(No Change)

(Determination of Customs Value of Imported  
Goods Deteriorated or Damaged)

*Article 4-5*

When the customs value is to be calculated under the provisions of Articles 4 to 4-4 and if it is found that the imported goods have deteriorated or are damaged, in the light of ~~the terms and conditions of the import transaction~~ **a condition of the transaction of the imported goods and other circumstances surrounding it**, by the time of import declaration (or, by the time as prescribed in sub-paragraphs (2) to (8) of Article 4 (Exceptional date of determination of object for duty assessment) of the Customs Law, in the case of the goods as enumerated in any of those sub-paragraphs; hereinafter in the proviso to paragraph 1 of Article 10 referred to as "the time of import declaration, etc."), the customs value of the imported goods shall be the customs value calculated as if such deterioration or damage had not occurred, subject to deductions for an amount equivalent to the depreciation caused by such deterioration or damage.

*Articles 4-6 and 4-7*

(No Change)

**(Documents, etc. for the Calculation of Customs Value)**

***Article 4-8***

**When the customs value is to be calculated under the provisions of Articles 4 to 4-7, the value and other matters to be used as the basis for the calculation shall be verified by documents providing reasonable grounds and be calculated in accordance with accounting practices that are generally accepted as fair and appropriate.**

(Mandate to Cabinet Order)

*Article 4-9~~8~~*

(No change)

## II. Cabinet Order for Enforcement of Customs Tariff Law

(Provisional Translation)

(Price Actually Paid or Payable for the Imported Goods)

*Article 1-4*

(No change)

(1) charges for services for construction, erection, assembly, maintenance or technical assistance, undertaken on the imported goods after the date of the import declaration for the imported goods (or, in the case of the goods as enumerated in any of the sub-paragraphs of Article 4 (Exceptional date of determination of object for duty assessment) of the Customs Law, such time as provided for in any of those sub-paragraphs; in paragraph 1 of Article 1-11~~10~~ referred to as "the date of determination of object for duty assessment");

(2) (No change)

(3) customs duties and any other charges levied on the imported goods in Japan;

(4) interest for deferred payment for the imported goods, where the import transaction **(as provided for in paragraph 1 of Article 4 (import transaction) of the Law; the same to apply hereinafter)** is subject to deferred payment.

(Cost of Transport, etc., to be Included in the Customs Value)

*Article 1-5*

1. The "cost of transport, etc., to the port of importation" as provided for in sub-paragraph (1) ~~(Cost of transport, etc., to the port of importation)~~ of paragraph 1 of Article 4 **(Principle for Determining the Customs Value)** of the Law, shall, when actual cost of transport, etc., for the imported goods to the port of importation considerably exceeds the cost of transport, etc., for the imported goods to the port of importation usually required to be paid, owing to the fact that the imported goods (excluding goods coming under the goods as provided for in paragraph 1 of Article 4-6 (Special rule for determination of customs value of air cargo, **etc.**) of the Law) are transported under unusual circumstances, be the cost of transport, etc., to the port of importation usually required to be paid.

2. The value of the goods enumerated in (a), (b) and (c) of sub-paragraph (3) of paragraph 1 of Article 4 of the Law shall be the value determined by the categories of goods respectively enumerated therein, and be obtained by adding expenses specified in the following sub-paragraphs and the cost of transport, the cost of insurance and other expenses incurred by the buyer for the provision of the said goods (in case where the said goods are also incorporated in the goods other than the imported goods, used in the production of the goods other than the imported goods or consumed in the process of the production of the goods other than the imported goods, the value shall be prorated in proportion to the degree of the use of the said goods incorporated in the imported goods, used for the production of the imported goods or consumed in the process of the production of the imported goods).

In this case, if there is either an increase in value as a result of processing, improvement or any other act aimed at adding value, or a decrease in value because of depletion by use, or transformation or for any other unavoidable reason (in case of the goods enumerated in sub-paragraph (1) it shall be limited to the increase in value or the decrease in value incurred before the provision by the buyer in connection with the production of the imported goods and import transaction after the production of the said goods, and in case of the goods enumerated in sub-paragraph (2), it shall be limited to the increase in value or the decrease in value incurred before the provision by the buyer in connection with the production of the imported goods and import transaction after the acquisition of the said goods by the buyer), the amount corresponding to the

increase in value or decrease in value shall be added or deducted. (1) Where the goods are produced by the buyer itself or the goods are produced by a person who has the relationship (as provided for in sub-paragraph (4) of paragraph 2 of Article 4 (relationship) of the Law: the same to apply hereinafter in sub-paragraph (1) of paragraph 4 and paragraph 1 of the next Article) and the buyer directly acquires the goods from the person, the expenses for the production of the said goods.

- (2) In case of the goods that are not enumerated in the previous sub-paragraph, the expenses normally required for the acquisition of the said goods by the buyer.

32. "The services necessary for the production of the imported goods as may be prescribed by a Cabinet Order "under the provision of (d) of sub-paragraph (3) of paragraph 1 of Article 4 (~~Value of services to be included in the customs value~~) of the Law shall be engineering, plans and sketches, development, artwork and design work, undertaken elsewhere than in Japan.

4. The value of the services enumerated in (d) of sub-paragraph (3) of paragraph 1 of Article 4 of the Law shall be the value determined by the categories of services respectively enumerated in the following sub-paragraphs and be obtained by adding expenses as specified therein and the cost of transport, the cost of insurance and other expenses incurred by the buyer for the provision of the said services (in cases where the said services are also used in the production of the goods other than the imported goods, the value shall be prorated in proportion to the degree of the use of the said services used in the imported goods). In this case, if there is either an increase in value by improvement or any other act aimed at adding value, or a decrease in value because of obsolescence or any other unavoidable reason (in case of the services enumerated in sub-paragraph (1), it shall be limited to the increase in value or the decrease in value incurred before the provision by the buyer in connection with the production of the imported goods after the undertaking of the said services, and in case of the goods enumerated in sub-paragraph (2), it shall be limited to the increase in value or the decrease in value incurred before the provision by the buyer in connection with the production of the imported goods after the provision of the said services to the buyer), the amount corresponding to the increase in value or decrease in value shall be added or deducted.

- (1) Where the services are undertaken by the buyer itself or the services are undertaken by a person who has the relationship and directly provided to the buyer from the person, the expenses for the undertaking of the said services.
- (2) In case of the services that are not enumerated in the previous sub-paragraph, the expenses normally required for the provision of the said services from the buyer.

53. The rights similar to patent, design and trade mark right as may be prescribed by a Cabinet Order under sub-paragraph (4) of paragraph 1 of Article 4 (~~The value of the use of patent right, etc., to, be included in the customs value~~) of the Law shall be the right of utility model, copyright and neighbouring rights and a production method based on special techniques, etc., for which royalties or license fees must be paid.

(Adjustment to Take Account of Price Difference when it is to be Demonstrated that the Transaction Value of the Imported Goods was not Influenced by Relationship and Procedure for Such Demonstration)

#### Article 1-6

1. "Such other costs and charges as may be prescribed by a Cabinet Order" under the proviso to paragraph 2 of Article 4 (**Principle for Determining the Customs Value**) ~~Demonstration that the transaction value of the imported goods was not influenced by relationship~~ of the Law shall be costs and charges, other than cost of transport, etc., as enumerated in any of the sub-paragraphs of paragraph 1 of the said Article, (~~Cost of transport, etc., to be included in the customs value~~); that are incurred by a seller in an import transaction in which he and the buyer are not related, (~~in terms of sub-paragraph (4) of paragraph 2 of the said Article (Relationship); the same to apply~~

~~hereinafter~~), but that are not incurred, wholly or partially, by the seller who is related to the buyer.

2. (No change)

3. (No change)

#### *Article 1-7*

(No Change)

(Scope of Relationship)

#### *Article 1-8*

"Such relationship between ~~them the buyer and seller~~ as may be prescribed by a Cabinet Order" under sub-paragraph (4) of paragraph 2 of Article 4 (**Principle for Determining the Customs Value Relationship between the buyer and seller**) of the Law shall be a relationship between **one the buyer and the other seller** which comes under any of the following sub-paragraphs:

- (1) when ~~they the buyer and seller~~ are legally recognized partners in business;
- (2) when either **one of them the buyer or the seller** is the employer of the other;
- (3) when either **one of them the buyer or the seller** directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of the other;
- (4) when either **one of them the buyer or the seller** directly or indirectly controls the other (excluding a case coming under the preceding sub-paragraph);
- (5) when any third party directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both **of them the buyer and seller**;
- (6) when ~~they the buyer or the seller~~ are directly or indirectly controlled by a third person (excluding a case coming under the preceding sub-paragraph);
- (7) when ~~they~~ together ~~the buyer and seller~~ directly or indirectly control a third person;
- (8) when ~~they the buyer and seller~~ are members of the same family.

**(Application of Articles 1-4 to the Preceding One in the Case as Provided for in Paragraph 3 of Article 4 of the Law)**

#### *Article 1-9*

In the case provided for in paragraph 3 of Article 4 (**Principle for Determining the Customs Value**), Articles 1-4 to the preceding one shall be applied under which the transaction as provided for in the paragraph shall be deemed as the import transaction, the entruster as provided for in the paragraph shall be deemed as the buyer, the trustee as provided for in the paragraph shall be deemed as the seller, and the price actually paid or payable for the processing, etc. as provided for in the paragraph shall be deemed as the price actually paid or payable for the imported goods.

(Priority of the Transaction Value of Goods Produced  
by the Same Producer, etc.)

#### *Article 1-10~~9~~*

(No change)

(Domestic Selling Price of the Imported Goods, etc.)

#### *Article 1-11~~10~~*

(No change)

(Determination of Customs Value of Special Imported Goods)

~~Article 1-12-1~~

(No change)

**(1) Where customs value cannot be calculated by the calculation methods as provided for in Articles 4 to 4-3 of the Law (Principle for Determining the Customs Value, Determination of Customs Value on the Basis of Transaction Value of Identical or Similar Goods, and Determination of Customs Value on the Basis of Domestic Selling Price or Cost of Production) because certain bases for the calculation of the customs value do not meet the requirements for the calculation by the aforementioned methods, and where reasonable adjustments given to the bases in question would be able to meet the requirements, the customs value shall be the value calculated based on such methods with such reasonable adjustments.**

~~(1) — there is available the customs value, calculated under the provisions of paragraph 1 of Article 4 (Principle for determining the customs value) of the Law or the customs value calculated under the provisions of sub-paragraph (1) of paragraph 1 of Article 4-3 (Determination of customs value on the basis of domestic selling price) of the Law (or, the customs value calculated under the provisions of paragraph 1 of Article 4 of the Law, if there are available both values referred to above), of goods (produced elsewhere than in Japan) which can demonstrate a price difference between such goods and the imported goods arising from differences in quality, function, time of exportation and any other circumstance, such customs value, with necessary adjustment made to take account of price difference between such goods and the imported goods arising from differences in quality, function, time of exportation and any other circumstance, by, for instance, multiplying the said customs value by a price ratio corresponding to differences in quality or function which can be seen from the price list of such goods or to the difference in time of exportation;~~

(2) (No change)

(Special Rule for Determination of Customs Value of Air Cargo)

Article 1-~~13~~12

1. (No change)

2. (No change)

(1) (No change)

(2) (No change)

(3) (No change)

(4) articles (excluding automobiles, vessels and aircraft) brought into Japan as accompanied luggage or imported as unaccompanied luggage through the procedures as prescribed in Article 14 by any person entering Japan for a purpose other than removal of his residence to Japan which are intended for his personal or professional use (excluding those articles which can be exempted from customs duty under the provisions of sub-paragraph (7) of Article 14 (Unconditional exemption from customs duty ~~on personal effects~~) of the Law), the total amount of the customs value of which is not more than 200,000 yen, calculated on the basis of airfreight and insurance;

(5) articles (excluding automobiles, vessels and aircraft) brought into Japan as accompanied luggage or imported as unaccompanied luggage through the procedures as prescribed in Article 14 by any person entering Japan for the purpose of removing his residence to Japan which are intended for the personal or professional use of himself or members of his family (excluding those articles which can be exempted from customs duty under the provisions of sub-paragraph (8) of Article 14 (~~Unconditional exemption from customs duty on household effects to be moved~~) of the Law), the total amount of the customs value of which is not more than 200,000 yen, calculated on the basis of airfreight and insurance;



- (6) goods which, under the terms and conditions of the contract for the **imported goods import transaction**, should have been transported by a mode of transportation other than air, but which have actually been transported by air, with any expenses incidental to the change in the mode of transport being borne by a person other than the importer of the said goods, for the reason that their arrival in Japan was, or was likely to be, delayed owing to a delay in production of the said goods or any other cause not attributable to the importer of the said goods;
- (7) (No change)
-