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Committee on Customs Valuation

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

CHECK-LIST OF ISSUES

HONDURAS

The following communication, dated 13 October 2014, is being circulated at the request of the delegation of Honduras.

In accordance with the Decision adopted by the Committee on Customs Valuation (document G/VAL/5), I have the honour to notify the Committee of the Honduran Government's replies to the questions in the check-list of issues concerning the implementation and administration of the Agreement on Customs Valuation.

1. Questions concerning Article 1:

(a) Sales between related persons:

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

In this regard, there are no special provisions other than those contained in the Agreement.

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

While the Agreement establishes that the fact of being related does not constitute grounds for rejecting the declared value, the customs administration has, on certain occasions, where lower values have been declared in comparison to imports of identical or similar goods, applied Decision 6.1. and Articles 204 and 205 of the Implementing Regulations for the Central American Uniform Customs Code (RECAUCA), which concern the procedure followed in the event of doubts regarding data and documents, and the submission of additional information.

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

Where doubt exists as to whether or not the relationship has influenced the price, the customs official shall follow, in accordance with Articles 204 and 205 of the RECAUCA, the procedure established in internal circular DEI-DL-SVA-20-2012 (Instructions for completing information requirement and declared value admissibility and inadmissibility forms), with a view to ensuring that the importer provides the evidence and additional information that will dispel any reasonable doubt as to the declared value. The above-mentioned circular is attached.

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

As established in the Agreement, by accepting the declared transaction value where the evidence or additional documentation requested dispels any reasonable doubt as to the declared value; otherwise, in accordance with paragraphs (i), (ii) and (iii) of that Article.

(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 such special provisions or practical arrangements, except for goods that have entered under a duty suspension regime, in which case they are valued on the basis of the transaction value declared at the time of their importation, with a depreciation percentage for machinery and vehicles.

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?

Pursuant to Article 195 of the RECAUCA, the order of application of the valuation methods established in Articles 5 and 6 of the Agreement shall be reversed, as provided for in Article 4 of the Agreement, only when the customs authority grants the request submitted by the importer.

3. How has Article 5.2 been implemented?

Honduras is not currently implementing the provisions of this paragraph.

4. How has Article 6.2 been implemented?

Honduras is not currently implementing the provisions of this paragraph.

5. Questions concerning Article 7:**(a) What provisions have been made for making value determinations pursuant to Article 7?**

The valuation method established in Article 7 shall be used to determine the value of used goods as it allows a certain amount of flexibility. It shall also be used to determine the customs value when the transaction value is rejected and the value cannot be determined by applying the subsequent methods successively and exclusively.

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

At the importer's request, and pursuant to Article 16 of the Agreement, the importer shall be informed in writing of the method used to determine the customs value of his goods.

This notification is, however, implicit in the procedure for doubts as to value, established in internal circular DEI-DL-SVA-20-2012.

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

The prohibitions in Article 7.2 of the Agreement are considered to be adequate to ensure the implementation of this provision.

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

In accordance with our national and regional regulations, the costs and charges referred to in Article 8.2 are mandatory in our country and are therefore required for the determination of the taxable base for the calculation of import duties and taxes.

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

On the website of the Central Bank of Honduras (<http://www.bch.hn/index.php>).

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

All information supplied to the Customs Service by importers or external users shall be kept under acceptable conditions of confidentiality and shall not be disclosed without the specific permission of whoever provided it or unless required for fiscal purposes by the competent bodies. The Tax Code guarantees confidentiality.

9. Questions concerning Article 11:

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

In the first instance, importers have the right to appeal, without penalty, in accordance with the procedure established in internal circular DEI-DL-SVA-20-2012, if they can prove, through additional information, that the declared value is indeed the price paid or payable.

Where they cannot do this, the transaction value will be rejected and the corresponding adjustment will be made. Once the importer has made the relevant payment, he will be entitled to the remedies of review and appeal established in Articles 127 of the CAUCA and Articles 623, 625 and 626 of the RECAUCA.

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

All information pertaining to relevant national laws, regulations, decisions and circulars, and any other related information, is published on the website of the Executive Directorate of Revenue (DEI) (<http://www.dei.gob.hn/website/index.php>). The Customs Revenue Directorate forms part of this institution.

11. Questions concerning Article 13:

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

This provision is set forth in regional regulations, i.e. Article 351 (Authorization of release subject to security) of the RECAUCA, which reads as follows:

"Article 351. Authorization of release subject to security. The declarant or his representative shall apply to the Customs Authority for authorization of release subject to a security, pursuant to Article 350(c) of these Regulations.

The Customs Authority or the competent body, where appropriate, shall enforce the security ex officio, when a final assessment is made of the taxes due and they are not paid within the relevant legal time-limit.

The Customs Services shall decide on other ways of authorizing release subject to the posting of a security.

At all events, authorization of release subject to security shall not be granted when that authorization entails derogation from non-tariff restrictions and regulations."

(b) Have additional explanations been laid down?

No additional explanations have been laid down.

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?**

Article 207 (Request for an explanation of the method applied) of the RECAUCA establishes the following: "For the purposes of Article 16 of the Agreement, the importer may request, within the three days following the date of notification of the customs value determined by the Customs Authority, an explanation regarding the method used as the basis for determining the customs value of the importer's goods. The Customs Authority shall respond within the ten days following the date of receipt of the request. Both the importer's request and the Customs Authority's reply must be done in writing or by the means specified by the Customs Service."

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

In addition to the above, internal circular DEI-DL-SVA-20-2012.

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

They have not been expressly included; however, Article 44 of the CAUCA establishes the following: "The customs value constitutes the tax base for levying import duties on goods being imported or definitively imported into customs territory of State Parties. The customs value shall be determined pursuant to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 and the provisions of the corresponding chapter of the Regulations. The customs value shall apply to goods being imported or definitively imported, whether taxable or not."

In this respect, it is understood that these Interpretative Notes were included together with the Agreement and they shall be taken into account to ensure a better interpretation thereof.

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

As regards the treatment of interest charges in the customs value of imported goods, Article 190 (Charges for interest) of the RECAUCA establishes the following: "Charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods shall not be regarded as part of the customs value, provided that:

- (a) the charges are distinguished from the price actually paid or payable for the goods;
- (b) the financing arrangement was made in writing;
- (c) where required, the buyer can demonstrate that: (i) such goods are actually sold at the price declared as the price actually paid or payable; and (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the financing was provided.

The Decision shall apply regardless of whether the finance is provided by the seller, a bank or another natural or legal person. It shall also apply, if appropriate, where goods are valued under a method other than the transaction value.

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?

- For all questions listed above, an indication of the references is requested.

Honduras is not currently implementing this paragraph and only takes into account the cost or value of the carrier medium itself.
