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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

MONTENEGRO

The following communication, dated 17 November 2014, is being circulated at the request of the delegation of Montenegro.

1. Questions concerning Article 1:

(a) Sales between related persons:

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

The provisions in the Agreement concerning sales between related persons are incorporated in Articles 30.1(4), 30.2, 30.3, 30.4, 30.5, 30.6, 30.7, 30.8 and 30.9 of the Customs Law (published in the Official Gazette of the Republic of Montenegro Nos. 7/02, 38/02, 72/02, 21/03, 31/03, 29/05, 66/06, 21/08 and 62/13).

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

Intercompany prices are not automatically regarded as being influenced by the relationship (Article 30.4 and 30.5 of the Customs Law).

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

The provision is implemented according to Article 30.6 of the Customs Law.

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

Article 1.2(b) of the Agreement is implemented according to Article 30.7 (1, 2, 3) of the Customs Law.

(b) Price of lost or damaged goods:

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

Special provisions for lost and damaged goods are contained in Article 41.2, 41.3 and 41.4 of the Customs Law and Article 70.2 of the Decree on Implementation of the Customs 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?

The provision is implemented according to Article 34.2 of the Customs Law.

3. How has Article 5.2 been implemented?

The provision is implemented according to Article 35.2 of the Customs Law.

4. How has Article 6.2 been implemented?

The provision is implemented according to Articles 36.2 and 36.3 of the Customs Law.

5. Questions concerning Article 7:

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

The provisions are contained in Article 37 of the Customs Law.

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

The customs office shall upon request of the importer issue a written notification as to the level of the customs value and the method of its determination (Article 37.3 of the Customs Law).

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

Yes - Article 37.2 (paragraphs 1, 2, 3, 4, 5, 6 and 7) of the Customs Law.

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?

Montenegro applies rules Incoterms 2010.

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

The rate of exchange is published by the Montenegro Central Bank as a List of Exchange Rates.

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

The provision of Article 10 of the Agreement is implemented according to Article 44a of the Customs Law.

9. Questions concerning Article 11:

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

Importer has the right of appeal referred to the determined valuation carried out by the Customs Office for the goods being valued. The appeal can be submitted to the Ministry of finance, but the importer shall have the right in the final instance to appeal to the Administrative Court.

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

In accordance with the Law on General Administrative Procedure every decision issued by the Customs Administration contains information about rights for further appeal.

10. Provide information on the publication, as required by Article 12, of:**(a) (i) the relevant national laws;**

The national laws concerning the Agreement are published in the Official Gazette of the Montenegro and on official site of Montenegrin Customs Administration. Any person can purchase them.

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

The national laws concerning the Agreement are published in the Official Gazette of the Montenegro and on official site of Montenegrin Customs Administration. Any person can purchase them.

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

The judicial decision and administrative rulings of general application relating to the Agreement are not published.

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

No other general or specific laws are referred to in our legislation for implementation of the Agreement.

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

No further rules are anticipated.

11. Questions concerning Article 13:**(a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?**

The provision of Article 13 is contained in Articles 42 of the Customs Law.

(b) Have additional explanations been laid down?

No.

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?**

This provision is implemented according to Article 37.4 of the Customs Law and to Article 94.2 of the Decree on Implementation of the Customs Law.

(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 have been incorporated in Customs Regulation for determining the Customs value according to the Customs Law of Montenegro - Articles 29-45 (Official Gazette of the Republic of Montenegro Nos. 7/02, 38/02, 72/02, 21/03, 31/03, 29/05, 66/06, 21/08 and 62/13).

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

The Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods is implemented according to Article 39.1(3) of the Customs Law.

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?

The Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment is implemented according to Article 43 of the Customs Law.
