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Committee on Customs Valuation

Original: Spanish

**NOTIFICATION UNDER ARTICLE 22 OF THE AGREEMENT ON
THE IMPLEMENTATION OF ARTICLE VII OF THE GENERAL
AGREEMENT ON TARIFFS AND TRADE 1994**

PLURINATIONAL STATE OF BOLIVIA

The following communication, dated 26 October 2023, is being circulated at the request of the delegation of the Plurinational State of Bolivia.

Pursuant to Article 22.2 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, the Permanent Mission of Bolivia has the honour to notify herewith the codified text of Law No. 1990, of 28 July 1999 (General Customs Law) and Supreme Decree No. 25870, of 11 August 2000, for the implementation of the General Customs Law (compiled text updated in April 2020).

The official version is available in Spanish at the following address:

(a) General Customs Law in force

<https://www.aduana.gob.bo/aduana7/sites/default/files/kcfinder/files/legislacion/LEY%20GENERAL.pdf>

Article 145 of this Law includes a third paragraph.

Note: The article includes the amendment, made pursuant to Article 3 of Law No. 549 of 21 July 2014, regarding the inclusion of the third paragraph.

Articles 188 - 241 (repealed)

Title 11 was repealed by the Eleventh Final Provision of Law No. 2492 of 2 August 2003 (Bolivian Tax Code); the content of these articles is set forth in Articles 182-188, 190, 191 and 192 of the Code.

(b) General Customs Law regulations in force

<https://www.aduana.gob.bo/aduana7/sites/default/files/kcfinder/files/legislacion/REGLAMENTO%20A%20LA%20LEY%20GENERAL%20DE%20ADUANAS.pdf>

General Customs Law No. 1990 of 28 July 1999

Article 145. The Customs Administration, in case of reasonable doubt, with respect to the value declared in commercial transactions between related enterprises, may carry out and/or require the importer to carry out transfer pricing studies, in order to verify whether or not the relationship between the buyer and the seller has influenced the price, for the purposes of applying the transaction value.

Note: The article includes the amendment, made pursuant to Article 3 of Law No. 549 of 21 July 2014, regarding the inclusion of the third paragraph.

Articles 188 - 241 (repealed)

Title 11 was repealed by the Eleventh Final Provision of Law No. 2492 of 2 August 2003 (Bolivian Tax Code); the content of these articles is set forth in Articles 182-188, 190, 191 and 192 of the Code (Law No. 2492, Bolivian Tax Code).

Law No. 2492, Bolivian Tax Code**Section I: GENERAL PROVISIONS**

ARTICLE 182 (Applicable Regulations). The administration of criminal proceedings for tax offences shall be governed by the regulations laid down in the Code of Criminal Procedure, subject to the exceptions provided for in the present Code.

Section II: SPECIFICITIES IN CRIMINAL PROCEEDINGS ON TAX MATTERS

ARTICLE 183 (Criminal Proceedings for Tax Offences). Criminal proceedings on tax matters are a question of public order and shall be brought *ex officio* by the Office of the Public Prosecutor, with the involvement, as accorded by this Code, of the Tax Administration holder of the tax debt as the injured party, which may become the plaintiff. Criminal proceedings on tax matters may not be suspended, interrupted or brought to an end, except in the instances provided for in the Code of Criminal Procedure.

ARTICLE 184 (Tax Criminal Jurisdiction). Pursuant to Article 43 of the Code of Criminal Procedure, the Sentencing Courts in tax matters shall be composed of two technical judges specialized in tax matters and three lay judges. Both the Sentencing Courts in tax matters and the investigating judges in criminal tax matters shall have jurisdiction in the department and shall sit in the department capitals.

ARTICLE 185 (Investigation Directorate and Technical Body). The Office of the Public Prosecutor shall conduct investigations into tax offences and bring criminal proceedings on tax matters before judicial bodies, with the assistance of multidisciplinary investigation teams from the Tax Administration, in accordance the powers, functions and responsibilities laid down in this Code, the Code of Criminal Procedure and the Organic Law of the Office of the Public Prosecutor. The Tax Administration multidisciplinary investigation teams are the technical bodies for investigating tax offences, and shall act directly or at the direction of the Office of the Public Prosecutor. In order to perform its functions, the Tax Administration may request assistance from the National Police and the Forensic Investigation Institute.

ARTICLE 186 (Preventive Action). I. When the Customs Tax Administration becomes aware, by any means, of the commission of the offence of smuggling or another customs tax offence, it shall proceed directly or at the direction of the prosecutor to arrest those present at the place of commission, to apprehend the alleged perpetrators or participants and to carry out preventive seizures of the goods, means and instrumentalities of the crime, it shall gather and secure the evidence, carry out the procedures and actions that shall be ordered by the prosecutor conducting the investigation, and it shall exercise broad investigative powers in the preventive action and during the preparatory stage, and may request the assistance of the law enforcement agencies for this purpose. When the prosecutor has not participated in the operation, the apprehended persons shall be made available to him/her within the following eight hours, and he/she shall also be informed of the goods and conveyances seized preventively, so that he/she can assume the functional direction of the investigation and request the appropriate interim measure from the Criminal Investigation Judge. When the arrest is made in places that are far from the headquarters of the prosecutor or

the competent judicial authority, the time limits shall be calculated by applying the distance conditions provided for in the Code of Civil Procedure. In the case of other Tax Administrations, preventive action shall be taken only in the event of *in flagrante delicto* crimes. II. When at the investigation stage there is evidence to suggest that accused may be a flight risk and if the precautionary measures adopted do not guarantee that the accused is made available for the purposes of the investigation or will attend the criminal trial, the Office of the Public Prosecutor or the Tax Administration shall request the competent judicial authority to order the preventive detention of the accused, with the assistance of the law enforcement agencies, without this implying prejudgement.

ARTICLE 187 (Operation Record for Customs Tax Offences). The Customs Tax Administration shall document its operation in a record that shall: (a) identify the administrative authority that carried out the operation and the prosecutor, if he/she intervened; (b) give a detailed account of the facts, specifying the time and place; (c) identify the persons apprehended, the accused as the authors, accomplices or accessories to the customs crime, if possible; (d) identify the evidence secured and, where appropriate, the means used in the commission of the crime; (e) detail the goods and instrumentalities seized; and (f) include other relevant background details, factors and means. Within 48 hours, the Customs Tax Administration and the Prosecutor shall inform the competent Judge of the goods, conveyances seized and the persons apprehended, without this meaning that the impartiality of the judicial authority has been compromised.

ARTICLE 188 (Precautionary Measures). Precautionary measures of a personal nature shall be subject to the provisions and rules of the Code of Criminal Procedure. The following substantive precautionary measures may be applied: 1. the preventive seizure of the goods, conveyances and instrumentalities used in the commission of the offence or linked to the object of the tax, which is part of the tax debt being enforced; 2. the withholding of tax refunds or other payments that must be made by the State and private third parties, in the amount necessary to ensure the recovery of the tax debt; 3. the entry of a caveat in the public records on the property, rights and shares of the perpetrators of or participants in the tax offence, and of the person with civil liability; 4. the freezing of the accused's assets; 5. the withholding of deposits of money or securities made with financial intermediaries; 6. the seizure of the accused's assets; 7. the assuming of control of the accused's business, to an extent proportional to the tax debt; 8. the closure of the debtor's establishment(s) or premises until the tax debt is settled in full; 9. a prohibition on concluding acts or contracts to transfer or dispose of certain assets; 10. a judicial mortgage; 11. the renewal of guarantees, if any, for the estimated duration of the proceedings, subject to alternative enforcement of the guarantees; and 12. other measures as provided for by law. Precautionary measures shall be applied, with exemption from the payment of securities, duties and storage costs that are listed in the respective records and held by public institutions, and with deferred payment in the case of private institutions.

ARTICLE 189 (Conciliation). Conciliation proceedings in criminal tax matters shall be conducted in accordance with the provisions of the Code of Criminal Procedure and the Organic Law of the Office of the Public Prosecutor. In cases of smuggling, conciliation proceedings shall be instituted if the accused forfeits the goods and accepts their definitive confiscation and auction in favour of the Tax Administration upon payment of the customs liabilities. In the event that the goods have not been seized, conciliation proceedings shall be instituted upon payment of an amount equivalent to 100% of the value of the goods. With regard to conveyances, conciliation proceedings shall be instituted if the transporter has paid the fine equivalent to 50% of the value of the goods in lieu of the seizure of the conveyance, except as provided for in international agreements signed by the State. In cases of tax fraud or customs fraud, conciliation proceedings shall be instituted if the accused has paid the tax debt and the fine laid down for the corresponding crime. The Tax Administration shall participate in the conciliation hearing as the injured party.

ARTICLE 190 (Conditional Suspension of Proceedings). In criminal tax matters, the conditional suspension of proceedings shall be initiated under the terms set out in the Code of Criminal Procedure with the following specificities: 1. For the offences of tax fraud, customs fraud or the falsification of customs documents, full reparation of the harm suffered shall be understood to mean the payment of the tax debt and the fine laid down for the corresponding crime. 2. For the offences of smuggling or of stealing a customs bond, reparation of the harm suffered shall be understood to mean the forfeiture in favour of the Tax Administration of all of the smuggled or stolen goods or, in the event that the goods have not been seized, the payment of 100% of their value. With regard to conveyance used, the payment by the transporter of 50% of the value of the goods in lieu of the seizure of the conveyance, except as provided for in international agreements signed by the State.

ARTICLE 191 (Text of the Sentence Handed Down). When handing down the sentence, the Sentencing Court shall impose, where applicable: (a) a prison term; (b) the definitive confiscation of goods in favour of the State, where applicable; (c) the definitive confiscation of conveyances, where applicable; (d) a fine; (e) other accompanying sanctions; (f) the obligation to pay the final tax debt due; (g) compensation for civil damage caused to the Tax Administration for the use of customs warehouses and other expenses, as well as legal costs. Substantive precautionary measures shall remain in force until the taxes and eligible civil damages have been settled.

ARTICLE 192 (Auction and Administration of Assets). When substantive precautionary measures are imposed on goods that are difficult to maintain, are subject to rapid technological depreciation, or become outdated due to fashion or season, are consumables or perishable, in the preparatory or trial stage, the Investigating Judge or the Sentencing Court in tax matters, respectively, at the request of a party, shall arrange for the immediate sale of the goods at public auction within 24 hours, even without the owner's consent. With respect to other goods, after 90 days have elapsed without an enforceable judgement, in order to avoid the further depreciation in the value of the goods due to the passing of time, the Investigating Judge, the Sentencing Court in tax matters or the relevant Court of Appeals shall arrange for the immediate sale of the goods at public auction, at the request of a party. The proceeds of the auction and deposits or resources withheld as a result of the enforcement of guarantees shall be used to pay the tax debt. To this end, these proceeds shall be deposited in tax accounts. In the event that the State has not been fully reimbursed, the Sentencing Court shall order the seizure of more of the debtor's assets. The procedure for registering, administering and controlling goods that have been seized, frozen, confiscated or forfeited in relation to tax and customs matters shall be the responsibility of the relevant Tax Administration, with the same obligations and powers set forth in the Code of Criminal Procedure for the Directorate for the Registration, Control and Administration of Seized Assets, except as provided for in the present Code. The arrangements, requirements, conditions and timeline for the auction and the distribution of the proceeds of the auction, shall be established in the Regulations.
