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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

ISRAEL

The following submission, dated 23 November 2020, is being circulated at the request of the delegation of Israel.

1. Questions concerning Article 1:

(a) Sales between related persons:

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

There are no special provisions other than those contained in the Agreement which are reflected in Articles 129 and 132(b)(4) of the Customs Ordinance.

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

Only when companies are related in one of the ways set forth in Article 15.5 of the Agreement, which is equivalent to Article 129 of the Customs Ordinance, there is a legal presumption requiring the Administration to examine the circumstances of the sale or the importer to demonstrate, in accordance with the criteria set out in Article 1.2(b) of the Agreement, which is equivalent to Article 132(b)(4) of the Customs Ordinance, that, although a relationship exists, it did not influence the prices.

(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))

During customs clearance of the goods, the importer has to declare if s/he have a relationship with its supplier and if so, that it did not influence the price. That is, the price is adequate for the purposes of determining the customs value on the basis of the transaction value. However, the investigation into the truthfulness and accuracy of the declaration is subject to subsequent review having assessed all documentary evidence provided by the importer, third parties, and even other authorities.

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

For clearance purposes, by means of "Declaration of the importer" enclosed by the importer to the customs declaration in which it was declared whether s/he have a relationship with their supplier and if so, that it did not influence the price which is adequate for the purposes of determining the customs value.

Customs is entitled to a subsequent review requesting the importer to demonstrate that the declared value closely approximates to one of the test values established in Article 132(b)(4) of the Customs Ordinance or in its equivalent - Article 1.2(b) of the Agreement, in the actual circumstances of the import.

Transfer Pricing documentation are also taking into account.

(b) Price of lost or damaged goods:

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

Yes, Articles 133(g) and 150 (1) of the Customs Ordinance dealing with lost or 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?

Since the customs value of imports is mainly determined on the basis of the transaction value, importers have had relatively little experience in implementing other methods of determination. However, the principle laid down in Article 4 of the Agreement whereby the importer is given the option of reversing the order of application of Articles 5 and 6, is provided for in Article 130(6) of the Customs Ordinance.

3. How has Article 5.2 been implemented?

Israel has no experience in this regard yet, in principle, the matter is established in Article 133(d)(3) of the Customs Ordinance.

4. How has Article 6.2 been implemented?

Israel has no experience in this regard yet, in principle, the matter is established in Article 133(e)(2) of the Customs Ordinance.

5. Questions concerning Article 7:

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

The Customs Ordinance reproduces the text of Article 7 in Article 133f (1) (2) (3).

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

Customs Ordinance Article 133h.

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

Yes. Article 133f (1) (2) (3) of the Customs Ordinance reproduces the text of Article 7.2 of the Agreement.

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?

Yes, as long as there is documentary evidence that the transaction actually took this form. It should be noted that Israel applies the c.i.f. base and that it has opted to include, under Article 133 (a)(5) of the Customs Ordinance, all of the costs listed in Article 8.2 of the Agreement in determining customs value.

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

The exchange rate of foreign currency for Customs purpose are published at Israel Tax Authority website.¹

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

Articles 231(a)(2) of the Customs Ordinance dealing with the disclosure of confidential information.

9. Questions concerning Article 11:**(a) What rights of appeal are open to the importer or any other person?**

The available rights of appeal are the following: the importer or anyone on its behalf may submit an appeal to the customs official responsible for Valuation at the Israel Customs Directorate headquarters. In addition, the importer or anyone on its behalf may file a lawsuit to the court on the basis of Article 154 of the Customs Ordinance, whether an appeal was priory submitted to the Israel Customs Directorate headquarters or not.

In case of a personal import of a vehicle, one can appeal the decision of a regional customs office in their regard to the appeal committee consisting of a Director of a Regional Customs Office and officials from the headquarters.

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

The right to appeal and further appeal appears at the Valuation regulations available on the Israel Tax Authority website.

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

The laws are published in the official gazette (of the Ministry of Justice) and on the Israel Tax Authority website.

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

Regulations and guidelines of a general nature are published on the Israel Tax Authority website

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

Judicial decisions and administrative rulings of general application are published on the Israel Tax Authority website.

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

Such are available at the Customs Ordinance. In addition, they are published in the official gazette (of the Ministry of Justice) and on the Israel Tax Authority website.

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

No.

¹ https://www.gov.il/he/departments/topics/customs_israel_tax_authority.

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

The Valuation regulations are published on the Israel Tax Authority website and are available at Article 31 of the Customs Ordinance

(b) Have additional explanations been laid down?

Yes. According to Customs regulations, in case an importer wishes to clear its goods while customs is examining the value of the goods or is making an alternative valuation, the importer can release the goods from customs subject to a provision of a guarantee.

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. Article 133(h) of the Customs Ordinance obligate the Israel Customs Directorate to explain in writing how the customs value of the importer's goods were determined.

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

The customs Valuation regulations, which are published on the Israel Tax Authority website, also relate to such requests.

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

Subject to the ruling of the Israeli Supreme Court, Interpretative Notes constitute a significant instrument for the interpretation of the Agreement.

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

The provisions of the Decision on the Treatment of Interest Charges in Customs Value of Imported Goods are implemented in Article 132(d) of the Customs Ordinance.

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?

According to Customs regulations, when determining the value of abstract goods such as software, films, etc., the value of the software is not to be differentiated from the value of the device containing the software, as both are to be considered in the course of determination of value for the purpose calculation of import taxes. Yet, the above excludes instances where VAT is paid subject to Article 26(b) of the VAT Law such that the tax is paid upon the purchase of foreign currency intended for the purchase of abstract goods or for forwarding the foreign currency to the seller, the earlier of which. In these instances, VAT is not to be paid again at the time of the import. This is available in the Valuation regulations Chapter 2.2 Article 4, published on the Israel Tax Authority website.
