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Committee on Customs Valuation

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

CHECKLIST OF ISSUES

UNITED KINGDOM

The following communication, dated 1 January 2021, is being circulated at the request of the delegation of the United Kingdom.

The Delegation of the United Kingdom hereby submit the following answers to the questions contained in checklist of issues.

1. Questions concerning Article 1:

(a) Sales between related persons:

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

Yes, in the UK sales between related persons are subject to the same conditions as laid out in the WTO Agreement on Customs Valuation. Definitions of related persons and their treatment are outlined in the following UK legislation:

- Taxation (Cross-border Trade) Act 2018 Part 1 16. Available at: <http://www.legislation.gov.uk/ukpga/2018/22/contents/enacted>
- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 1 107. Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>
- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 1 112 (4) (a) (i & ii). Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>
- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 6 128. Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>

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

Where it is considered that intercompany prices may have had an influence on price, the UK will consider the details of the sale to decide if influencing has occurred.

The following UK legislation defines related companies:

- Taxation (Cross-border Trade) Act 2018 Part 1 Section 16. Available at: <http://www.legislation.gov.uk/ukpga/2018/22/contents/enacted>

- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 6 128 (2) a to d. Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>

(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))

Where the UK believes that a relationship has influenced a price, the importer will be informed in writing or otherwise, and at the same time the importer shall be informed of their right to appeal or review that decision.

The following UK legislation is applicable:

- Finance Act 1994 Part 1 chapter II 14 (2) and (3). Available at: <http://www.legislation.gov.uk/ukpga/1994/9/contents>

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

In determining if a transaction value is acceptable, the UK will consider the details of the sale to determine if any relationships between the buyer and seller has influenced that transaction value. Where a relationship has not been deemed to influence the price, and the provisions otherwise provided in Article 1 have been met, the price paid or payable shall be accepted.

The following UK legislation is applicable:

- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 2 108. Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>

(b) Price of lost or damaged goods:

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

Yes, where goods can be proved to be lost or damaged the UK will consider its effect on the overall value of those goods, and where appropriately satisfied accept an adjustment to the value.

The following UK legislation is applicable:

- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 3. Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>

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 UK allows the application of Articles 5 and 6 to be reversed where the use of Article 6 above Article 5 is reasoned to be the appropriate course of action, and where evidence to this effect can be produced upon request.

The following UK legislation is applicable:

- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 2 108 (3a). Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>

3. How has Article 5.2 been implemented?

Where neither identical nor similar imported goods are sold in the country of importation, the application of a unit price derived from the greatest aggregate quantity sold is accepted by the UK assuming that this selling price can be adequately evidenced.

The following UK legislation is applicable:

- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 5 123. Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>

4. How has Article 6.2 been implemented?

The UK requires upon request, the provision of evidence on how a customs value was arrived at. If this information is not provided the value may be challenged by the UK authorities. The UK will not endeavour to compel non-UK resident persons to provide access to any account or other record used to arrive at a computed value, but will seek verification of the evidence through mutual recognition arrangements with relevant authorities.

The following UK legislation is applicable to provision of evidence:

- Taxation (Cross-border Trade) Act 2018 Part 1 Supplementary 25 and 26. Available at: <http://www.legislation.gov.uk/ukpga/2018/22/contents/enacted>
- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 2 110. Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>

5. Questions concerning Article 7:

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

Where the value of imported goods cannot be determined under the terms of Articles 1 to 6, the UK will flexibly apply aspects of those articles to arrive at a customs value. This value shall be based on data which can be evidence and is available in the country of importation.

The following UK legislation is applicable:

- Taxation (Cross-border Trade) Act 2018 Part 1 16 (6)(b). Available at: <http://www.legislation.gov.uk/ukpga/2018/22/contents/enacted>
- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 5 126. Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>

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

Upon request in the UK, an importer or exporter has the right to ask for an explanation in writing of how the customs value of imported or exported goods was determined. This can be done by asking for a review or appeal.

The following UK legislation is applicable:

- Finance Act 1994 Part 1 chapter II 14 (2) and (3). Available at: <http://www.legislation.gov.uk/ukpga/1994/9/contents>

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

Yes, in the UK when determining the customs value of goods, it shall be done in line with the principles for the valuation of goods adopted by the WTO in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

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 the UK information on what should be included or excluded from the customs value, including in the case of f.o.b., are covered by the following legislation:

- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 CHAPTER 3 111. Available at: <http://www.legislation.gov.uk/ukxi/2018/1248/contents/made>

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

The UK publishes exchange rates to be used for the conversion of currency via its public domain website at <https://www.gov.uk/government/collections/exchange-rates-for-customs-and-vat>

The following UK legislation is applicable:

- Taxation (Cross-border Trade) Act 2018 Part 1 18. Available at: <http://www.legislation.gov.uk/ukpga/2018/22/contents/enacted>

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

The UK treats all information provided for customs valuation purposes as confidential. It does not disclose information without permission from the person or government it originated from.

The UK sets out its handling of confidential data in the following legislation:

- Data Protection Act 2018 CHAPTER 12. Available at: <http://www.legislation.gov.uk/ukpga/2018/12/enacted>
- Taxation (Cross-border Trade) Act 2018 Part 1 25. Available at: <http://www.legislation.gov.uk/ukpga/2018/22/contents/enacted>

9. Questions concerning Article 11:

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

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

In the UK anyone who disagrees with a customs decision has the right to appeal that decision. Notification of intent to appeal must be made within 30 days of the date the document notifying a customs decision was received.

The following UK legislation is applicable:

- Finance Act 1994 Part I Chapter II 13A to 16. Available at: <http://www.legislation.gov.uk/ukpga/1994/9/contents>

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

(a) (i) The relevant national laws;

All UK laws are publicly available on <https://www.legislation.gov.uk/>

See:

Taxation (Cross-border Trade) Act 2018 Part 1 section 16. Available at: <https://www.legislation.gov.uk/ukpga/2018/22/section/16/enacted>

The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12. Available at: <https://www.legislation.gov.uk/ukxi/2018/1248/part/12/made>

(ii) The regulations concerning the application of the Agreement:

All UK laws are publicly available on <https://www.legislation.gov.uk/>

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

Judgements in the UK are publicly available on [Judgments | Courts and Tribunals Judiciary](#)

(iv) General or specific laws being referred to in the rules of implementation or Application

All UK laws are publicly available on <https://www.legislation.gov.uk/>

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

No further rules are currently anticipated.

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

Where the value of goods cannot immediately be decided, they may be released under condition that suitable guarantees have been provided.

The following UK legislation is applicable:

- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 10 (94) to (101). Available at: <http://www.legislation.gov.uk/ukxi/2018/1248/contents/made>
- Taxation (Cross-border Trade) Act 2018 schedule 1 17 (1) to (7)(b). Available at: <http://www.legislation.gov.uk/ukpga/2018/22/contents/enacted>

(b) Have additional explanations been laid down?

UK legislation as detailed in our response to question 11 (a) is considered comprehensive enough that additional explanation is not required.

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?**

National legislation provides for the notification of import liability. We may not enforce a liability to import duty until the person liable has been notified. Our explanation on how we consider the liability arose is included in that notification. Importers are given the right to a review or appeal within that notification.

The following UK legislation is applicable:

- Finance Act 1994 Part 1 chapter 2 14 (2) and (3). Available at: <http://www.legislation.gov.uk/ukpga/1994/9/contents>
- Taxation (Cross-border Trade) Act 2018 Part 1 Schedule 6. Available at: <http://www.legislation.gov.uk/ukpga/2018/22/contents/enacted>

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

No further regulations are considered necessary.

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

The UK has represented the Interpretative notes of the GAAT 1994 within its national legislation.

The following UK legislation is applicable:

- Taxation (Cross-border Trade) Act 2018 Part 1 Section 16. Available at: <http://www.legislation.gov.uk/ukpga/2018/22/contents/enacted>
- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12. Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>

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

When and how interest charges should be excluded for the purpose of valuation has been defined in UK law.

The following UK legislation is applicable:

- The Customs (Import Duty) (EU Exit) Regulations 2018 PART 12 Chapter 4 117 (1) to (4). Available at: <http://www.legislation.gov.uk/uksi/2018/1248/contents/made>

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?

When determining the customs value of carrier media, the UK has aligned its practices with decision 4.1 of the WTO Valuation Committee, whereby only the value of the carrier medium itself is taken into account, not the data it contains, provided this is distinguished from the value of the carrier medium itself.
