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Committee on Customs Valuation

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

REPLIES FROM THE PHILIPPINES TO QUESTIONS FROM THE UNITED STATES
CONTAINED IN DOCUMENT G/VAL/Q/PHL/1

PHILIPPINES

The following communication, dated 15 December 2023, is being circulated at the request of the delegation of the Philippines.

Question 1

In response to question 13, the Philippines indicated that the Interpretative Notes of the WTO Customs Valuation Agreement (CVA) "have been expressly included through specific provisions in R.A. No. 10863 and relevant CAOs or CMOs". Could the Philippines please identify these provisions implementing the Interpretative Notes?

Response

The Interpretative Notes are provided for under Customs Memorandum Order (CMO) No. 16-2010.

It is important to note that the provision on dutiable value under Republic Act (R.A.) No. 10863 otherwise known as "Customs Modernization and Tariff Act (CMTA) of 2016" and R.A. No. 9135 which is "An Act Amending some certain Provisions of Presidential Decree No. 1464 otherwise known as the Tariff and Customs Code of the Philippines" of 2001, are the same. They are culled from the World Trade Organization (WTO) Valuation Agreement.

Thus, CMO No. 16-2010 which implements R.A. No. 9135 and incorporated the interpretative notes of the WTO are still valid and operational pursuant to Section 1802 of R.A. No. 10863. Section 1802 provides, "All other laws, acts, executive orders, and Customs Administrative Orders (CAOs), Customs Memorandum Orders (CMOs), orders, memoranda, circulars, rules and regulations issued by the Bureau, under the provisions of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines of 1978, as amended, not inconsistent with the provisions of this Act, shall remain valid unless the same will be repealed or amended accordingly, pursuant to the provisions of this Act".

Question 2

Has the Philippines entirely implemented Article 15 of the CVA, which provides various definitions for terms used throughout the CVA (e.g., "customs value of imported goods", "country of importation", and "produced")?

Response

Yes, the Philippines implemented Article 15 of the CVA considering that the entire provision thereof and its Interpretative Notes and incorporated in Philippine laws (R.A. No. 10863) and regulations (CAO) No. 9-2020 and CMO 16-2010.

Question 3

Section 701 of Republic Act No. 10863 lists various additions to the price actually paid or payable when determining transaction value. In part, this section lists "cost of containers" as an addition. Article 8.1(a)(ii) of the CVA lists "[to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods...] the cost of containers *which are treated as being one for customs purposes with the goods in question*". Please clarify whether the "cost of containers" described in Section 701 of Republic Act. No. 10863 is limited to the types of containers referred to in Article 8.1(a)(ii).

Response

Yes, the Philippines submits that there is no variance in so far as interpreting "cost of containers" to be added to the price actually paid or payable under Article 8(a)(ii) of the CVA and in Section 701 of R.A. No. 10863. Considering that there is no amendment to the Interpretative Notes as incorporated under CMO 16-2010, the interpretation of Section 701 of R.A. No. 10863 should be the same.
