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Additional Information on Customs Issues

Reference Prices

The Russian Federation Law "On Customs Tariffs" stipulates the rules for determining customs value which are basically consistent with the provisions of the Agreement on Implementation of Article VII of the GATT 1994 with respect to customs valuation of products, including those governing the use of the methods for determining the transaction price of imported products.

Taking into account the provisions of Article 17 of the Agreement on Implementation of Article VII of the GATT 1994 concerning customs valuation of products, the State Customs Committee (SCC) of Russia has been implementing a special technology of customs value control since May 1996 in order to enhance the effectiveness of customs value control and to speed up commodity movement over the RF customs border through standardizing and formalizing the procedure for interim (provisional) valuation of products as well as to prevent abundant events of gross under invoicing of customs value, primarily the use of false documents stating a clearly understated contractual price in the performance of customs formalities for products. This technology is based on defining the decision making authority of the customs bodies with respect to the stated customs value of products. In other words, the relevant customs bodies are vested with certain functions to control customs value and those situations in which such functions should be performed are specified, thus defining the operational procedure of the customs bodies at the various levels (custom-house, regional customs authority, SCC staff).

It should be emphasized that SCC does not establish any so-called "reference prices" (or minimal prices) for customs valuation purposes. The above special customs technology for monitoring customs valuation of goods relates only to the division of competence among customs bodies. In other words, this technology establishes an optimal level of centralization between functions of customs bodies.

Therefore, this technology does not replace the applicable Russian legislation concerning free-market pricing. It is the right and duty of any participant in foreign trade activities (FTA) to state true information on the products he imports, including their value and the terms and conditions of such foreign trade activities; and it is the right and duty of the customs authorities to determine the procedure for checking the information so stated, including to appoint (determine) that customs body which will perform any specific controlling function. Once a FTA participant has complied with the applicable statutory standards and regulations for stating true information on the customs value of products and the terms and conditions of transactions, he is warranted that the customs formalities will be completed within an optimum period. The criteria set by the Russian SCC in its Order No. 757 of 24 December 1997 (including in relation to the stated price level) for the distribution of the

competence to perform customs control functions between the various levels of customs authorities within optimum periods do not affect the transaction price (contractual value) of products.

With regard to goods covered by this customs technology, a FTA participant has an option to choose either to release the goods in question for further use by submitting necessary customs payments (in accordance with paragraph 2, Article 15 of the Law on Customs Tariff) or to place these goods under such customs regime which provides for customs monitoring (control). Notwithstanding numerous facts of falsification of customs-related documents, including regarding value and quantity of goods, in accordance with the above customs technology, regional customs authorities and SCC cover only 0.33 per cent of total imports to Russia.

Falsification of documents cause substantial damage to Russia. In addition, this phenomenon leads to a serious disruption of integrity of the whole system of customs valuation in Russia, including its efficiency and competence.

Customs Fee

As regards the fees for customs formalities at a fixed rate (0.15 per cent) in relation to the customs value of products which are currently charged in Russia, we hereby inform as follows:

Since the customs service in the Russian Federation is still in the process of development and the fees for customs formalities are an important source of funding for the customs authorities, equipping which with state-of-the-art customs control facilities and modern technologies is one of the first priorities to date, a revision of the system of fees for customs formalities would be premature.

Article VIII of the GATT 1994 provides that the fees for customs formalities with respect to products shall be limited to the approximate cost of services rendered and shall not constitute an indirect protection of domestic products or taxation of imports or exports for fiscal purposes.

One option for charging fees for customs formalities with respect to products could be the setting of top and bottom limits for the rate of the fee, as practiced in a number of countries. Today, however, any top limit fixed for the rate of the customs fee would result in the loss of significant amounts of money which are primarily received from the clearance of energy materials and other products and vehicles transported over the customs border.

Given the aforesaid, the Government of Russia deems it necessary to request that a transitional period (of at least 5 years) be granted to Russia for resolving this problem. Furthermore, the SCC is currently studying modalities for moving to the fee collection system as contemplated in Article VIII of the GATT 1994, whereof the WTO member countries will be informed in due time.
