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Committee on Customs Valuation

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

REPLIES FROM VIET NAM TO QUESTIONS FROM CANADA
REGARDING DOCUMENT G/VAL/N/2/VNM/1

VIET NAM

The following communication, dated 5 April 2023, is being circulated at the request of the delegation of Viet Nam.

Regarding question 5(c) of the Checklist of Issues

Background

Article 7.2 of the Customs Valuation Agreement (CVA) outlines the prohibited valuation methods and reads as follows:

"2. No customs value shall be determined under the provisions of this Article on the basis of:

- (a) the selling price in the country of importation of goods produced in such country;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 6;
- (e) the price of the goods for export to a country other than the country of importation;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values."

On the other hand, Vietnam's response to question 5. (c) states that Vietnam's legislation reads as follows:

"When determining the customs value by this method, the declarant and the customs authority must not use the following values to determine the customs value:

- The selling price on the domestic market of Viet Nam of the same goods manufactured in Viet Nam;
- The selling price of goods in the domestic market of the exporting country;
- The selling price of goods for export to another country other than Viet Nam;

- Cost of goods production, except for the case where the cost of production of imported goods is used to determine the calculated value in the calculated value method;
- Reference prices in the List of imported goods subject to customs value risks; (emphasis added)
- The value declared by the customs declarant when there are no goods trading activities to import goods into Viet Nam; (emphasis added)
- Use the higher of the two alternative values as the customs value."

Question

What specifically is meant by the fifth and sixth points in the list, namely: "Reference prices in the List of imported goods subject to customs value risks" and "The value declared by the customs declarant when there are no goods trading activities to import goods into Viet Nam"? In what way can these be likened to articles 7.2.(f) and (g) of the Customs Valuation Agreement, namely: "(f) minimum customs values" and "(g) arbitrary or fictitious values"?

Furthermore, the fifth point implies that there is a "list of imported goods subject to customs value risks" and that "reference prices" are not permitted to be used for determining the customs value of those goods. Consequently, are there instances where Viet Nam does use reference prices to determine the customs value (e.g. goods not found on that list), and if so how and under what circumstances?

Response

As provided at Point d, e, Clause 3, Article 12 under Circular no. 39/2015/TT-BTC of 25 March 2015 and being amended and supplemented at minus point d, e, Point 3, Clause 7, Article 1 under Circular no. 60/2019/TT-BTC of 30 August 2019 by the Ministry of Finance, "Reference prices in the List of imported goods subject to customs value risks" and "The value declared by the customs declarant when there are no goods trading activities to import goods into Viet Nam" are similarly understood as provisions at Point f, g, Clause 2, Article 7.2 under Customs Valuation Agreement, namely "(f) minimum customs values" and "(g) arbitrary or fictitious values".

However, "Reference prices in the List of imported goods subject to customs value risks" is not "minimum customs values", as the reference prices in the List are just the standards to help Customs administration with questioning and examining declared prices of goods during clearance process. The List is not used for determining the customs values.

Regarding question 12(a) of the Checklist of Issues

In response to this question the following is stated: "... when the customs authority determines the customs value, the customs valuation shall be based on ..., the customs value database, the ...". In what way does the customs authority of Viet Nam use customs value databases in determining the customs value?

Response

As provided at Articles 8, 9 and 10 under Circular no. 39/2015/TT-BTC of 25 March 2015 by the Ministry of Finance, the customs value database is used when the Customs administration apply alternative methods for customs valuation, i.e. the transaction value of identical goods method, the transaction value of similar goods method and the deductive method.
