

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Customs Valuation

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French

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Addendum

Legislation of the European Economic Community

- (a) Council Regulation (EEC) No. 1224/80 of 28 May 1980 on the valuation of goods for customs purposes.
(Official Journal No. L 134 of 31 May 1980.)
- (b) Council Regulation (EEC) No. 3193 of 8 December 1980 amending Regulation (EEC) No. 1224/80 on the valuation of goods for customs purposes.
(Official Journal No. L 333 of 11 December 1980.)
- (c) Commission Regulation (EEC) No. 1493/80 of 11 June 1980 extending as a transitional measure the validity of certain Regulations based on Council Regulation (EEC) No. 803/68.

Commission Regulation (EEC) No. 1494/80 of 11 June 1980 on interpretative notes and generally accepted accounting principles for the purposes of customs value.

Commission Regulation (EEC) No. 1495/80 of 11 June 1980 implementing certain provisions of Articles 1, 3 and 8 of Council Regulation (EEC) No. 1224/80 on the valuation of goods for customs purposes.

Commission Regulation (EEC) No. 1496/80 of 11 June 1980 on the declaration of particulars relating to customs value and on documents to be furnished.
(Official Journal No. L 154 of 21 June 1980.)

*English and French only.

I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EEC) No 1224/80
of 28 May 1980
on the valuation of goods for customs purposes**

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community, and in particular Article 113
thereof,

Having regard to the proposal from the Commission,

Whereas, on 27 June 1968, the Council adopted Regu-
lation (EEC) No 803/68 on the valuation of goods for
customs purposes ⁽¹⁾;

Whereas, since then, in its Decision 80/271/EEC of
10 December 1979 concerning the conclusion of the
Multilateral Agreements resulting from the 1973 to
1979 trade negotiations, the Council approved in parti-
cular, on behalf of the European Economic Commu-
nity, the 'Agreement on implementation of Article
VII of the General Agreement on tariffs and trade' ⁽²⁾;

Whereas that Agreement lays down rules for facili-
tating international trade by removing barriers to such
trade arising from the application of different
methods of customs valuation; whereas its aim is, in
particular, to pursue the objectives of the General
Agreement on tariffs and trade (GATT) and to ensure
that developing countries enjoy additional advantages
in international trade; whereas, where possible, it
introduces the transaction value as the basis for the
customs valuation of goods;

Whereas that Agreement will enter into force on 1
January 1981; whereas, however, the Community
holds the view that it should be implemented from 1
July 1980;

Whereas the Community, in accepting the Agree-
ment, has placed itself under an obligation to ensure,

not later than the date of entry into force of the Agree-
ment for the Community, that its rules concerning
customs valuation conform with the provisions of the
Agreement;

Whereas, to this end, the customs valuation system
introduced by Regulation (EEC) No 803/68 and
currently in force should be amended; whereas that
Regulation was intended to ensure uniform applica-
tion of the Common Customs Tariff and equal treat-
ment of Community importers; whereas the objective
of this Regulation is to foster world trade by intro-
ducing a fair, uniform and neutral system of customs
valuation excluding the use of arbitrary or fictitious
customs values; whereas, therefore, the customs value
must be determined in accordance with criteria which
are compatible with trade practice; whereas, in parti-
cular, the basis for customs valuation of goods will, as
a general rule, be the transaction value defined in
Article 3 of this Regulation;

Whereas, however, certain transitional measures must
be laid down in the case of goods the customs value
of which must be determined prior to the date of
entry into force of the abovementioned Agreement;

Whereas it is necessary to guarantee that this Regula-
tion applies uniformly to imports of all goods and,
therefore, to lay down a Community procedure which
will enable the detailed rules for its implementation to
be adopted within an appropriate period;

Whereas it is, therefore, desirable that a committee be
set up to organize close and effective collaboration
between the Member States and the Commission in
this area,

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 6.

⁽²⁾ OJ No L 71, 17. 3. 1980, p. 1.

HAS ADOPTED THIS REGULATION:

TITLE I

Article 1

1. In this Regulation:
 - (a) 'customs value' means value for the purpose of applying the Common Customs Tariff;
 - (b) 'produced' includes grown, manufactured and mined;
 - (c) 'identical goods' means goods produced in the same country which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical;
 - (d) 'similar goods' means goods produced in the same country which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable; the quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;
 - (e) 'identical goods' and 'similar goods', as the case may be, do not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under Article 8 (1) (b) (iv) because such elements were undertaken in the Community;
 - (f) 'goods of the same class or kind' means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;
 - (g) 'the material time for valuation for customs purposes' means:
 - (i) for goods declared for direct entry into free circulation, the date of acceptance by the customs authorities of the declarant's statement of his intention that the goods should enter into free circulation,
 - (ii) for goods which, after another customs procedure has been applied, enter into free circulation, the time fixed by acts of the Council or the Commission pertaining to that customs procedure or by Member States in accordance with such acts;
 - (h) 'the Agreement' means the Agreement on implementation of Article VII of the General Agree-

ment on tariffs and trade concluded in the framework of the multilateral trade negotiations of 1973 to 1979.

2. For the purposes of this Regulation, persons shall be deemed to be related only if:

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognized partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

3. For the purpose of this Regulation, persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria of paragraph 2.

4. For the purposes of this Regulation, the term 'persons' means natural or legal persons.

Article 2

1. The customs value of imported goods is to be determined under Article 3 whenever the conditions prescribed therein are fulfilled.

2. Where such value cannot be determined under Article 3, it is to be determined by proceeding sequentially through Articles 4, 5, 6 and 7 to the first such Article under which it can be determined, subject to the proviso that the order of application of Articles 6 and 7 shall be reversed if the importer so requests; it is only when such value cannot be determined under a particular Article that the provisions of the next Article in a sequence established by virtue of this paragraph can be applied.

3. Where the customs value of imported goods cannot be determined under Article 3, 4, 5, 6 or 7, it shall be determined using reasonable means consistent with the principles and general provisions of the Agreement and of Article VII of the General Agreement on tariffs and trade and on the basis of data available in the Community.

4. No customs value shall be determined under paragraph 3 on the basis of:

- (a) the selling price in the Community of goods produced in the Community;
- (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 Article 7;
- (e) prices for export to a country not comprised in the customs territory of the Community;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values.

Article 3

1. The customs value of imported goods determined under this Article shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to the customs territory of the Community, adjusted in accordance with Article 8, provided:

- (a) that there are no restrictions as to the disposition or use of the goods by the buyer, other than restrictions which:
 - (i) are imposed or required by law or by the public authorities in the Community,
 - (ii) limit the geographical area in which the goods may be resold, or
 - (iii) do not substantially affect the value of the goods;
- (b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with Article 8; and
- (d) that the buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes under paragraph 2.

2. (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related within the meaning of Article 1 shall not in itself be grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be

examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise, the customs administration has grounds for considering that the relationship influenced the price, it shall communicate its grounds to the importer and he shall be given a reasonable opportunity to respond. If the importer so requests, the communication of the grounds shall be in writing.

(b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with paragraph 1 whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time:

- (i) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to the Community;
- (ii) the customs value of identical or similar goods, as determined under Article 6;
- (iii) the customs value of identical or similar goods, as determined under Article 7;
- (iv) the transaction value in sales, between buyers and sellers who are not related in any particular case, for export to the Community of goods which would be identical to the imported goods except for having a different country of production provided that the sellers in any two transactions being compared are not related.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 8 and costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related.

(c) The tests set forth in paragraph 2 (b) are to be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under the said paragraph 2 (b).

3. (a) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments and may be made directly or indirectly.

(b) Activities, including marketing activities, undertaken by the buyer on his own account, other than those for which an adjustment is provided in Article 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

4. The customs value of imported goods shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods:

- (a) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;
- (b) customs duties and other taxes payable in the Community by reason of the importation or sale of the goods.

Article 4

1. (a) The customs value of imported goods determined under this Article shall be the transaction value of identical goods sold for export to the Community and exported at or about the same time as the goods being valued.

(b) In applying this Article, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in Article 8 (1) (e) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

3. If, in applying this Article, more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

4. In applying this Article, a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under paragraph 1 for identical goods produced by the same person as the goods being valued.

5. For the purposes of this Article, the transaction value of identical imported goods means a customs value previously determined under Article 3, adjusted as provided for in paragraphs 1 (b) and 2 of this Article.

Article 5

1. (a) The customs value of imported goods determined under this Article shall be the transaction value of similar goods sold for export to the Community and exported at or about the same time as the goods being valued.

(b) In applying this Article, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of similar goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in Article 8 (1) (e) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

3. If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

4. In applying this Article, a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under paragraph 1 for similar goods produced by the same person as the goods being valued.

5. For the purposes of this Article, the transaction value of similar imported goods means a customs value previously determined under Article 3, adjusted as provided for in paragraphs 1 (b) and 2 of this Article.

Article 6

1. (a) If the imported goods or identical or similar imported goods are sold in the Community in the condition as imported, the customs value of imported goods, determined under this Article, shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following:

- (i) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses (including the direct and indirect costs of marketing the goods in question) in connection with sales in the Community of imported goods of the same class or kind;
- (ii) the usual costs of transport and insurance and associated costs incurred within the Community; and
- (iii) the customs duties and other taxes payable in the Community by reason of the importation or sale of the goods.

(b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value of imported goods determined under this Article shall, subject otherwise to the provisions of paragraph 1 (a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Community in the condition as imported at the earliest date after the importation of goods being valued but before the expiration of 90 days after such importation.

2. If neither the imported goods nor identical nor similar imported goods are sold in the Community in

the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the Community who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1 (a).

3. In this Article, the unit price at which imported goods are sold in the greatest aggregate quantity is the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

4. Any sale in the Community to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in Article 8 (1) (b), should not be taken into account in establishing the unit price for the purposes of this Article.

5. For the purposes of paragraph 1 (b), the 'earliest date' shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

Article 7

1. The customs value of imported goods determined under this Article shall be based on a computed value. Computed value shall consist of the sum of:

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the Community;
- (c) the cost or value of the items referred to in Article 8 (1) (e).

2. A customs administration may not require or compel any person not resident in the Community to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the

purposes of determining the customs value under this Article may be verified in a non-Community country by the customs authorities of a Member State with the agreement of the producer and provided that such authorities give sufficient advance notice to the government of the country in question and the latter does not object to the investigation.

3. The cost or value of materials and fabrication referred to in paragraph 1 (a) above shall include the cost of elements specified in Article 8 (1) (a) (ii) and (iii). It shall also include the value, duly apportioned, of any element specified in Article 8 (1) (b) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in Article 8 (1) (b) (iv) which are undertaken in the Community shall be included only to the extent that such elements are charged to the producer.

4. Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the customs authorities shall inform the importer, if the latter so request, of the source of such information, the data, subject to Article 10.

5. The 'general expenses' referred to in paragraph 1 (b), above, cover the direct and indirect costs of producing and selling the goods for export which are not included under paragraph 1 (a).

Article 8

1. In determining the customs value under Article 3, there shall be added to the price actually paid or payable for the imported goods:

- (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
 - (i) commission and brokerage, except buying commissions,
 - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question,
 - (iii) the cost of packing, whether for labour or materials;
- (b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

- (i) materials, components, parts and similar items incorporated in the imported goods,

- (ii) tools, dies, moulds and similar items used in the production of the imported goods,

- (iii) materials consumed in the production of the imported goods,

- (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Community and necessary for the production of the imported goods;

- (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;

- (e) (i) the cost of transport and insurance of the imported goods, and

- (ii) loading and handling charges associated with the transport of the imported goods

to the place of introduction of the goods into the customs territory of the Community.

2. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.

3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

4. In this Article, the term 'buying commissions' means fees paid by an importer to his agent for the service of representing him in the purchase of the goods being valued.

5. Notwithstanding paragraph 1 (c) of this Article:

- (a) charges for the right to reproduce the imported goods in the Community shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and

- (b) payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the Community of the goods.

Article 9

1. (a) Where factors used to determine the value for customs purposes of goods are expressed in a currency other than that of the Member State where the valuation is made, the rate of exchange to be used shall be that duly published by the competent authorities of the Member State concerned.
- (b) Such rate shall reflect as effectively as possible the current value of such currency in commercial transactions in terms of the currency of such Member State and shall apply during such period as may be specified by the aforementioned competent authorities.
2. (a) Until such time as a rate of exchange is published in accordance with paragraph 1, the rate of exchange to be used shall be the latest selling rate recorded on the most representative exchange market or markets of the Member State concerned at the material time for valuation for customs purposes.
- (b) Where such a rate does not exist, the rate of exchange to be used shall be determined by the procedure laid down in Article 19.

Article 10

1. With a view to determining value for customs purposes and without prejudice to national provisions which confer wider powers on the customs authorities of Member States, any person or undertaking directly or indirectly concerned with the import transactions in question shall supply all necessary information and documents to those authorities within the time limits prescribed by the latter.

2. All information which is by nature confidential or which is provided on a confidential basis for the purposes of customs valuation shall be treated as strictly confidential by the authorities concerned who shall not disclose it without the specific permission of the person or government providing such information, except to the Commission or to the extent that it may be required to be disclosed in the context of judicial proceedings.

3. Information and documents supplied to the Commission by a Member State pursuant to paragraph 2 may be used by the Commission only for the purpose for which they were supplied. They shall be subject to professional secrecy and in particular may not be communicated to persons other than those who, within the institutions of the Communities or the Member States, are required to have access to them by virtue of the functions they exercise.

Article 11

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the

final determination of such customs value, the importer shall nevertheless be able to withdraw his goods from customs if, where so required, he provides sufficient guarantee in the form of a surety, a deposit or some other appropriate instrument, covering the ultimate payment of customs duties for which the goods may be liable.

Article 12

1. Upon written request, the importer shall have the right to an explanation in writing from the customs administration of the country of importation as to how the customs value of his imported goods was determined.

2. Requests for an explanation under paragraph 1 of this Article shall be introduced no later than one month after the date when the customs value is determined in accordance with this Regulation.

3. Where, under national procedures, the importer is provided with the explanation referred to in paragraph 1 without his having made a written request, the requirements of this Article shall be deemed to have been fulfilled.

Article 13

In so far as Community provisions laying down procedures for the settlement of disputes concerning customs matters have not been adopted, the relevant provisions laid down by law, regulation or administrative action of Member States shall remain applicable.

Neither the request nor the explanation referred to in Article 12 shall constitute acts capable as such of activating procedures for the settlement of disputes or judicial or administrative procedures within the meaning of the said national provisions.

Article 14

1. For the purposes of Article 8 (1) (e) and Article 15, the place of introduction into the customs territory of the Community shall be:

- (a) for goods carried by sea, the port of unloading, or the port of transhipment, subject to transhipment being certified by the customs authorities of that port;
- (b) for goods carried by sea and then, without transhipment, by inland waterway, the first port where unloading can take place either at the mouth of the river or canal or further inland, subject to proof being furnished to the customs authorities that the freight to the port of unloading is higher than that to the first port;

- (c) for goods carried by rail, inland waterway, or road, the place where the first customs office is situated ;
- (d) for goods carried by other means, the place where the land frontier of the customs territory of the Community is crossed.

2. For goods introduced into the customs territory of the Community and then carried to a destination in another part of that territory through the territory of a third country or by sea, after passing through a part of the customs territory of the Community, the place of introduction into the Community to be taken into consideration shall, subject to paragraph 3, be determined in accordance with the procedure laid down in Article 19.

3. For goods introduced into the customs territory of the Community and carried directly from one of the French overseas departments or Greenland to another part of the customs territory of the Community or vice versa, the place of introduction to be taken into consideration shall be the place referred to in paragraphs 1 and 2 situated in that part of the customs territory of the Community from which the goods came, if they were unloaded or transhipped there and this was certified by the customs authorities.

When those conditions are not fulfilled, the place of introduction to be taken into consideration shall be the place specified in paragraphs 1 and 2 situated in that part of the customs territory of the Community to which the goods are consigned.

Article 15

1. The customs value of imported goods shall not include the cost of transport after importation into the customs territory of the Community provided that such cost is distinguished from the price actually paid or payable for the imported goods.
2. (a) Where goods are carried by the same means of transport to a point beyond the place of introduction into the customs territory of the Community, transport costs shall be assessed in proportion to the distance covered outside and inside the customs territory of the Community, unless evidence is produced to the customs authorities to show the costs that would have been incurred under a general compulsory schedule of freight rates for the carriage of the goods to the place of introduction into the customs territory of the Community.

The preceding subparagraph shall not apply to goods sent by post. Special provisions may be adopted for such goods in accordance with the procedure laid down in Article 19, in view of the special nature of charges in international postal services.

- (b) Where goods are invoiced at a uniform free domicile price which corresponds to the price at the place of introduction, transport costs

within the Community shall not be deducted from that price. However, such deduction shall be allowed if evidence is produced to the customs authorities that the free-frontier price would be lower than the uniform free domicile price.

- (c) Where transport is free or provided by the buyer, transport costs to the place of introduction, calculated in accordance with the schedule of freight rates normally applied for the same modes of transport, shall be included in the customs value.

Article 16

The particulars and documents to be furnished to the customs authorities for the purposes of application of this Regulation shall, where necessary, be determined in accordance with the procedure laid down in Article 19.

TITLE II

Article 17

1. A Customs Valuation Committee (hereinafter called 'the Committee') shall be set up and shall consist of representatives of the Member States with a representative of the Commission as chairman.

2. The Committee shall draw up its own rules of procedure.

Article 18

The Committee may examine :

- (a) all questions relating to the application of this Regulation ; and
- (b) all questions relating to the work of the Technical Committee on Customs Valuation established under the auspices of the Customs Cooperation Council under the Agreement

referred to it by its chairman, either on his own initiative or at the request of a representative of a Member State.

Article 19

1. Provisions necessary for :

- (a) the introduction into Community law of those provisions of Part I of and Annex I to the Agreement which are not reflected in this Regulation, in so far as they do not include amendments to Council acts ; and
- (b) the implementation of the provisions of Title I of this Regulation, other than those contained in Articles 12 and 13

shall be adopted in accordance with the procedure laid down in paragraphs 2 and 3.

2. The representative of the Commission shall submit to the Committee a draft of the provisions to be adopted. The Committee shall deliver an opinion on the draft within a time limit set by the chairman having regard to the urgency of the matter. Decisions shall be taken by a majority of 41 votes, the votes of Member States being weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) The Commission shall adopt the provisions envisaged if they are in accordance with the opinion of the Committee.
- (b) If the provisions envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal with regard to the provisions to be adopted. The Council shall act by a qualified majority.
- (c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed provisions shall be adopted by the Commission.

TITLE III

Article 20

The provisions of this Regulation shall not affect the provisions contained in acts of the Council or of the Commission, or laid down by Member States in accordance with such acts, regarding the determination of the value for customs purposes of goods which enter into free circulation after a customs procedure other than that relating to direct entry into free circulation has been applied.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 May 1980.

Article 21

Each Member State shall inform the Commission of the provisions it adopts for the application of this Regulation. The Commission shall communicate this information to the other Member States.

Article 22

1. This Regulation shall come into force on 1 July 1980 except for Title II which shall come into force on the day following publication of the Regulation in the *Official Journal of the European Communities*.

2. Regulation (EEC) No 803/68 shall be replaced by this Regulation. Any references to it shall be deemed to refer to this Regulation.

3. Regulation (EEC) No 803/68 shall continue to apply to goods for which the material time for valuation for customs purposes is prior to 1 July 1980.

4. The validity of regulations adopted pursuant to Regulation (EEC) No 803/68 may be extended as a transitional measure beyond 30 June 1980 under the procedure in Article 19. Such extension shall not, however, exceed six months.

5. The laws, regulations and administrative provisions of the Member States laying down simplified procedures for determining the customs value of certain perishable goods shall continue to apply until 31 December 1980.

Acting on a proposal from the Commission, the Council will adopt Community provisions on these procedures before 1 January 1981.

For the Council

The President

G. MARCORA

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3193/80
of 8 December 1980
amending Regulation (EEC) No 1224/80 on the valuation of goods for customs purposes

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the 1979 Act of Accession,

Having regard to the proposal from the Commission,

Whereas, by Decision 80/271/EEC⁽¹⁾, the Council approved, on behalf of the European Economic Community, the Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade and the Protocol annexed thereto;

Whereas the provisions of the said Protocol are to be regarded as an integral part of the Agreement when the latter comes into force, that is, on 1 January 1981;

Whereas the Council adopted, on 28 May 1980, Regulation (EEC) No 1224/80⁽²⁾ in conformity with the Agreement;

Whereas the provisions of Regulation (EEC) No 1224/80 must be brought into conformity with certain provisions of the said Protocol, in respect of which the European Economic Community's instrument of acceptance was deposited on 25 July 1980;

Whereas because of the accession of the Hellenic Republic it is necessary to adjust the number of votes which constitute the majority required in a vote in the Committee in the framework of the procedure referred to in Article 19 (2) of Regulation (EEC) No 1224/80;

Whereas Article 22 (4) of Regulation (EEC) No 1224/80 permitted the extension, until the end of 1980, of the validity of certain Regulations adopted pursuant to Council Regulation (EEC) No 803/68 of 27 June 1968 on the valuation of goods for customs purposes⁽³⁾;

Whereas Article 22 (5) of Regulation (EEC) No 1224/80 provides that before 1 January 1981 the Council will adopt Community provisions on simplified procedures for determining the customs value of certain perishable goods,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1224/80 is hereby amended as follows:

1. Article 3 (2) (b) (iv) shall be deleted.
2. Article 3 (3) (a) shall be replaced by the following:

'3 (a) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods and includes all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments and may be made directly or indirectly.'
3. The following Article shall be inserted:

Article 16a

1. By way of derogation from Article 2 (1) to (3), the customs value of perishable goods usually delivered on consignment may, at the request of the importer, be determined under simplified procedures drawn up for the whole Community.
2. An importer may join the simplified-procedure system in respect of one or more products for

⁽¹⁾ OJ No L 71, 17. 3. 1980, p. 1.

⁽²⁾ OJ No L 134, 31. 5. 1980, p. 1.

⁽³⁾ OJ No L 148, 28. 6. 1968, p. 6.

a period to be determined in accordance with the procedure laid down in Article 19. This option shall not deny the importer the right to use another method of customs valuation provided for in this Regulation in the order given in Article 2. Nevertheless, if he exercises this right, the simplified procedures will not longer be applied to him for a period and under conditions to be fixed in accordance with the procedure laid down in Article 19.

3. The goods to which such procedures shall apply and the rules and criteria for the establishment of the unit value of such goods shall be determined in accordance with the procedure laid down in Article 19.

4. By way of derogation from Article 22 (4), the validity of Regulations adopted pursuant to Regulation (EEC) No 803/68, which concern the customs valuation of certain perishable goods, may be extended as a transitional measure until the entry into force of Community provisions to be determined as provided for in paragraphs 2 and 3 of this

Article, in accordance with the procedure laid down in Article 19, but such extension shall not continue beyond 30 June 1981.'

4. In Article 19 (2) the number 41 shall be replaced by 45.

5. Article 22 (5) shall be replaced by the following:

'5. The laws, regulations and administrative provisions of the Member States laying down simplified procedures for the customs valuation of certain goods shall continue to apply until the entry into force of Community provisions to be determined in accordance with the provisions of Article 16a (2) and (3) but not later than 30 June 1981.'

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

However, points 1, 2, 4 and 5 of Article 1 shall apply only from 1 January 1981.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 8 December 1980.

For the Council

The President

C. NEY

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1493/80

of 11 June 1980

**extending as a transitional measure the validity of certain Regulations based on
Council Regulation (EEC) No 803/68**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No 1224/80
of 28 May 1980 on the valuation of goods for customs
purposes ⁽¹⁾, and in particular Article 22 (4) thereof,

Whereas, pursuant to Article 22 (4) of Regulation (EEC)
No 1224/80, the validity of Regulations adopted
pursuant to Regulation (EEC) No 803/68 ⁽²⁾ may be
extended as a transitional measure for a period not
exceeding six months under the procedure provided for
in Article 19 of the said Regulation (EEC) No 1224/80;

Whereas it is appropriate, as a transitional measure, to
extend the application of certain technical Regulations
up to the end of 1980;

Whereas the measures provided for in this Regulation are
in accordance with the opinion of the Customs Valuation
Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1. The validity of the following Regulations based
upon Regulation (EEC) No 803/68 shall, as a
transitional measure, be extended until 31 December
1980:

— Commission Regulation (EEC) No 1150/70 of 18
June 1970 on the place of introduction within the
meaning of Article 6 (2) of Regulation (EEC) No
803/68 on the valuation of goods for customs
purposes,

— Commission Regulation (EEC) No 1570/70 of
3 August 1970 establishing a system of standard
average values for citrus fruits, as last amended by
Regulation (EEC) No 223/78,

— Commission Regulation (EEC) No 1641/75 of 27
June 1975 establishing a system of standard average
values for the determination of the value for customs
purposes of apples and pears, as last amended by
Regulation (EEC) No 224/78,

— Commission Regulation (EEC) No 1025/77 of 17
May 1977 specifying, for purposes of Article 6 (2) of
Council Regulation (EEC) No 803/68 on the
valuation of goods for customs purposes, the place of
introduction for goods carried by sea,

— Commission Regulation (EEC) No 1033/77 of 17
May 1977 on the air transport costs to be included in
the value for customs purposes,

— Commission Regulation (EEC) No 2741/78 of 24
November 1978 on postal charges to be taken into
consideration when determining the value for
customs purposes of goods sent by post.

2. The extension of the validity, as a transitional
measure, of Regulations (EEC) No 1570/70 and (EEC)
No 1641/75, shall not preclude the right of an importer
to have the provisions of Regulation (EEC) No 1224/80
applied.

If an importer exercises his right to have the provisions of
Regulation (EEC) No 1224/80 applied to goods which
would otherwise be valued under the system of standard

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 6.

average values, Regulations (EEC) No 1570/70 and (EEC) No 1641/75 shall no longer apply to importations by him during the transitional period.

Article 2

This Regulation shall enter into force on 1 July 1980.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 1980.

For the Commission
Étienne DAVIGNON
Member of the Commission

COMMISSION REGULATION (EEC) No 1494/80

of 11 June 1980

on interpretative notes and generally accepted accounting principles for the purposes of customs value

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes ⁽¹⁾, and in particular Article 19 (1) (a) thereof,

Whereas the provisions of this Regulation are such as to ensure that the value for customs purposes will be determined in a uniform manner throughout the Community,

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Customs Valuation Committee,

Article 1

1. In applying Regulation (EEC) No 1224/80, Member States shall comply with the provisions set out in the Annexes hereto.
2. The provisions of Regulation (EEC) No 1224/80 referred to in the first column of Annex I must be applied in the light of the interpretative note appearing in the second column.
3. If it is necessary to make reference to generally accepted accounting principles in determining the customs value, the provisions of Annex II shall apply.

Article 2

This Regulation shall enter into force on 1 July 1980.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 1980.

For the Commission
Étienne DAVIGNON
Member of the Commission

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

ANNEX I

First column	Second column
Reference to provisions of Title I	Notes
Article 1 (2) (e)	One person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.
Article 2 (3)	<ol style="list-style-type: none"> 1. Customs values determined under the provisions of Article 2 (3) should, to the greatest extent possible, be based on previously determined customs values. 2. The methods of valuation to be employed under Article 2 (3) should be those laid down in Articles 3 to 7 inclusive, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Article 2 (3). 3. Some examples of reasonable flexibility are as follows: <ol style="list-style-type: none"> (a) <i>Identical goods</i> – the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of Articles 6 and 7 could be used. (b) <i>Similar goods</i> – the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Articles 6 and 7 could be used. (c) <i>Deductive method</i> – the requirement that the goods shall have been sold in the 'condition as imported' in Article 6 (1) (a) could be flexibly interpreted; the '90 days' requirement could be administered flexibly.
Article 3 (1)	The price actually paid or payable refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.
Article 3 (1) (a) (iii)	An example of such restriction would be the case where a seller requires a buyer of automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.

First column	Second column
Reference to provisions of Title I	Notes
Article 3 (1) (b)	<p>Some examples of this include:</p> <ul style="list-style-type: none"> (a) the seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities; (b) the price of the imported goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods; (c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that he will receive a specified quantity of the finished goods. <p>However, conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in the country of importation shall not result in rejection of the transaction value for the purposes of Article 3.</p>
Article 3 (2)	<ol style="list-style-type: none"> 1. Paragraphs 2 (a) and (b) provide different means of establishing the acceptability of a transaction value. 2. Paragraph 2 (a) provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the customs value provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the customs administration have no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the customs administration may have previously examined the relationship, or it may already have detailed information concerning the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price. 3. Where the customs administration is unable to accept the transaction value without further inquiry, it should give the importer an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale. In this context, the customs administration should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although related under the provisions of Article 1, buy from and sell to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sales to buyers who are not related to him, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period of time (e.g. on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.

First column	Second column
Reference to provisions of Title I	Notes
Article 3 (2) (<i>cont'd</i>)	4. Paragraph 2 (b) provides an opportunity for the importer to demonstrate that the transaction value closely approximates to a 'test' value previously accepted by the customs administration and is therefore acceptable under the provisions of Article 3. Where a test under paragraph 2 (b) is met, it is not necessary to examine the question of influence under paragraph 2 (a). If the customs administration has already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in paragraph 2 (b) has been met, there is no reason for it to require the importer to demonstrate that the test can be met.
Article 3 (2) (b)	A number of factors must be taken into consideration in determining whether one value 'closely approximates' to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and, whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the 'test' values set forth in Article 3 (2) (b).
Article 3 (3) (a)	An example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owed by the seller.
Article 4	<ol style="list-style-type: none"> In applying this Article, the customs administration shall, wherever possible, use a sale of identical goods at the same commercial level and in substantially the same quantity as the goods being valued. Where no such sale is found, a sale of identical goods that takes place under any one of the following three conditions may be used: <ol style="list-style-type: none"> a sale at the same commercial level but in a different quantity; a sale at a different commercial level but in substantially the same quantity; or a sale at a different commercial level and in a different quantity. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for: <ol style="list-style-type: none"> quantity factors only; commercial level factors only; or both commercial level and quantity factors. The expression 'and/or' allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.

First column	Second column
Reference to provisions of Title I	Notes
Article 4 (cont'd)	<p>4. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of this Article is not appropriate.</p>
Article 5	<p>1. In applying this Article, the customs administration shall, wherever possible, use a sale of similar goods at the same commercial level and in substantially the same quantity as the goods being valued. Where no such sale is found, a sale of similar goods that takes place under any one of the following three conditions may be used:</p> <ul style="list-style-type: none"> (a) a sale at the same commercial level but in a different quantity; (b) a sale at a different commercial level but in substantially the same quantity, or (c) a sale at a different commercial level and in a different quantity. <p>2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:</p> <ul style="list-style-type: none"> (a) quantity factors only; (b) commercial level factors only; or (c) both commercial level and quantity factors. <p>3. The expression 'and/or' allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.</p> <p>4. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only similar imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of this Article is not appropriate.</p>

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Article 6 (1)	<p>1. The words 'profit and general expenses' should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by or on behalf of the importer unless his figures are inconsistent with those obtaining in sales in the country of importation of imported goods of the same class or kind. Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer.</p> <p>2. In determining either the commissions or the usual profits and general expenses under this provision, the question whether certain goods are of the same class or kind as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in the country of importation of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of this provision, 'goods of the same class or kind' includes goods imported from the same country as the goods being valued as well as goods imported from other countries.</p>																
Article 6 (2)	<p>1. Where this method of valuation is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.</p> <p>2. This method of valuation would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty.</p> <p>On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in the country of importation that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.</p>																
Article 6 (3)	<p>1. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.</p> <table><tr><th>Sale quantity</th><th>Unit price</th><th>Number of sales</th><th>Total quantity sold at each price</th></tr><tr><td>One to 10 units</td><td>100</td><td>10 sales of five units Five sales of three units</td><td>65</td></tr><tr><td>11 to 25 units</td><td>95</td><td>Five sales of 11 units</td><td>55</td></tr><tr><td>Over 25 units</td><td>90</td><td>One sale of 30 units One sale of 50 units</td><td>80</td></tr></table> <p>The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is 90.</p>	Sale quantity	Unit price	Number of sales	Total quantity sold at each price	One to 10 units	100	10 sales of five units Five sales of three units	65	11 to 25 units	95	Five sales of 11 units	55	Over 25 units	90	One sale of 30 units One sale of 50 units	80
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Article 6 (3) (cont'd)	<p>2. As another example of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.</p> <p>3. A third example would be the following situation where various quantities are sold at various prices.</p> <p>(a) Sales</p> <table> <tr> <th><i>Sale quantity</i></th><th><i>Unit price</i></th></tr> <tr> <td>40 units</td><td>100</td></tr> <tr> <td>30 units</td><td>90</td></tr> <tr> <td>15 units</td><td>100</td></tr> <tr> <td>50 units</td><td>95</td></tr> <tr> <td>25 units</td><td>105</td></tr> <tr> <td>35 units</td><td>90</td></tr> <tr> <td>5 units</td><td>100</td></tr> </table> <p>(b) Total</p> <table> <tr> <th><i>Total quantity sold</i></th><th><i>Unit price</i></th></tr> <tr> <td>65</td><td>90</td></tr> <tr> <td>50</td><td>95</td></tr> <tr> <td>60</td><td>100</td></tr> <tr> <td>25</td><td>105</td></tr> </table> <p>In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is 90.</p>	<i>Sale quantity</i>	<i>Unit price</i>	40 units	100	30 units	90	15 units	100	50 units	95	25 units	105	35 units	90	5 units	100	<i>Total quantity sold</i>	<i>Unit price</i>	65	90	50	95	60	100	25	105
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Article 7	<p>1. As a general rule, customs value is determined under this Regulation on the basis of information readily available in the Community. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside the Community. Furthermore, in most cases the producer of the goods will be outside the jurisdiction of the authorities of the Member States. The use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the authorities of the country of importation the necessary costings and to provide facilities for any subsequent verification which may be necessary.</p> <p>2. The 'cost or value' referred to in Article 7 (1) (a) is to be determined on the basis of information relating to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.</p>																										

First column	Second column
Reference to provisions of Title I	Notes
<p>Article 7 (cont'd)</p>	<ol style="list-style-type: none"> 3. The 'amount for profit and general expenses' referred to in Article 7 (1) (b) is to be determined on the basis of information supplied by or on behalf of the producer unless his figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation. 4. No cost or value of the elements referred to in Article 7 (3) shall be counted twice in determining the computed value. 5. It should be noted in this context that the 'amount for profit and general expenses' has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and his general expenses are high, his profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being launched in the Community and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate that he is taking a low profit on his sales of the imported goods because of particular commercial circumstances, his actual profit figures should be taken into account provided that he has valid commercial reasons to justify them and his pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in the country of importation and accept a low profit to maintain competitiveness. Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods. 6. Whether certain goods are 'of the same class or kind' as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of Article 7, sales for export to the country of importation of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 7, 'goods of the same class or kind' must be from the same country as the goods being valued.
<p>Article 8 (1) (b) (ii)</p>	<ol style="list-style-type: none"> 1. There are two factors involved in the apportionment of the elements specified in Article 8 (1) (b) (ii) to the imported goods – the value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements should be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles. 2. Concerning the value of the element, if the importer acquires the element from a seller not related to him at a given cost, the value of the element is that cost. If the element was produced by the importer or by a person related to him, its value would be the cost of producing it. If the element had been previously used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or production would have to be adjusted downwards to reflect its use in order to arrive at the value of the element.

First column	Second column
Reference to provisions of Title I	Notes
<p>Article 8 (1) (b) (ii) (cont'd)</p>	<ol style="list-style-type: none"> 3. Once a value has been determined for the element, it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment, if the importer wishes to pay duty on the entire value at one time. As another example, the importer may request that the value be apportioned over the number of units produced up to the time of the first shipment. As a further example, he may request that the value be apportioned over the entire anticipated production where contracts or firm commitments exist for that production. The method of apportionment used will depend upon the documentation provided by the importer. 4. As an illustration of the above, an importer provides the producer with a mould to be used in the production of the imported goods and contracts with him to buy 10 000 units. By the time of arrival of the first shipment of 1 000 units, the producer has already produced 4 000 units. The importer may request the customs administration to apportion the value of the mould over 1 000, 4 000 or 10 000 units.
<p>Article 8 (1) (b) (iv)</p>	<ol style="list-style-type: none"> 1. Additions for the elements specified in Article 8 (1) (b) (iv) should be based on objective and quantifiable data. In order to minimize the burden for both the importer and customs administration in determining the values to be added, data readily available in the buyer's commercial record system should be used in so far as possible. 2. For those elements supplied by the buyer which were purchased or leased by the buyer, the addition would be the cost of the purchase or the lease. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them. 3. The ease with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods. 4. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design centre outside the country of importation in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of Article 8. 5. In another case, a firm may carry the cost of the design centre outside the country of importation as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of Article 8 with respect to the imported goods by apportioning total design centre costs over total production benefiting from the design centre and adding such apportioned cost on a unit basis to imports. 6. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation. 7. In cases where the production of the element in question involves a number of countries and over a period of time, the adjustment should be limited to the value actually added to that element outside the country of importation.

First column	Second column
Reference to provisions of Title I	— Notes
Article 8 (1) (c)	The royalties and licence fees referred to in Article 8 (1) (c) may include, among other things, payments in respect to patents, trademarks and copyrights.
Article 8 (2)	Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of Article 8, the transaction value cannot be determined under the provisions of Article 3. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a litre of a particular product that was imported by the kilogram and made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

ANNEX II

Use of generally accepted accounting principles

1. 'Generally accepted accounting principles' refers to the recognized consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures.
 2. For the purposes of the application of this Regulation, the customs administration concerned shall utilize information prepared in a manner consistent with generally accepted accounting principles in the country which is appropriate for the Article in question. For example, the determination of usual profit and general expenses under the provisions of Article 6 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of importation. On the other hand, the determination of usual profit and general expenses under the provisions of Article 7 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of production. As a further example, the determination of an element provided for in Article 8 (1) (b) (ii) undertaken in the country of importation would be carried out utilizing information in a manner consistent with the generally accepted accounting principles of that country.
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COMMISSION REGULATION (EEC) No 1495/80

of 11 June 1980

implementing certain provisions of Articles 1, 3 and 8 of Council Regulation (EEC)
No 1224/80 on the valuation of goods for customs purposes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No 1224/80
of 28 May 1980 on the valuation of goods for customs
purposes ⁽¹⁾, and in particular Article 19 (1) (b) thereof.

Whereas it is necessary to ensure uniform application of
the provisions of Regulation (EEC) No 1224/80 and to
this end to adopt implementing provisions;

Whereas the measures provided for in this Regulation are
in accordance with the opinion of the Customs Valuation
Committee,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of Article 1 (2) (h) of Regulation (EEC)
No 1224/80, persons shall be deemed to be members of
the same family only if they stand in any of the following
relationships to one another:

- husband and wife,
- parent and child,
- brothers and sisters (whether by whole or half
blood),
- grandparent and grandchild,
- uncle or aunt and nephew or niece,
- parent-in-law and son-in-law or daughter-in-law,
- brothers-in-law and sisters-in-law.

Article 2

1. For purposes of determining customs value under
the provisions of Article 3 of Regulation (EEC) No
1224/80 of goods in regard to which the price has not
actually been paid at the material time for valuation, the
price payable for settlement at the said time shall as a
general rule be taken as the basis for customs value.

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

2. The Commission and the Member States shall
consult within the Customs Valuation Committee
concerning the application of paragraph 1.

Article 3

Provided that they are distinguished from the price
actually paid or payable, the following shall not be
included in the customs value determined under Article 3
of Regulation (EEC) No 1224/80:

- (a) a charge for the right to reproduce the imported
goods in the Community;
- (b) a buying commission;
- (c) interest payable under a financing arrangement
relating to the purchase of the imported goods.

Article 4

Where goods declared for free circulation in the customs
territory of the Community are part of a larger quantity
of the same goods purchased in one transaction, the price
actually paid or payable for the purposes of Article 3 (1)
of Regulation (EEC) No 1224/80 shall be that price
represented by the proportion of the total price which the
quantity so declared bears to the total quantity
purchased.

Article 5

Where the price actually paid or payable for the purposes
of Article 3 (1) of Regulation (EEC) No 1224/80
includes an amount in respect of any internal tax
applicable within the country of origin or export in
respect of the goods in question, the said amount shall
not be incorporated in the customs value provided that it
can be demonstrated to the satisfaction of the customs
authorities concerned that the goods in question have
been or will be relieved therefrom for the benefit of the
buyer.

Article 6

For the purposes of Article 3 (1) of Regulation (EEC) No
1224/80, the fact that the goods are declared for free
circulation in the Community shall be regarded as

adequate indication that they were sold for export to the customs territory of the Community.

even if they are performed in pursuance of an obligation on the buyer following an agreement with the seller.

Article 7

Where, in applying Article 3 (1) (b) of Regulation (EEC) No 1224/80, it is established that the sale or price of imported goods is subject to a condition or consideration the value of which can be determined with respect to the goods being valued, such value shall be regarded as an indirect payment by the buyer to the seller and part of the price actually paid or payable provided that the condition or consideration does not relate to either:

- (a) an activity to which Article 3 (3) (b) of the said Regulation applies; or
- (b) a factor in respect to which an addition is to be made to the price actually paid or payable under the provisions of Article 8 of the said Regulation.

Article 8

1. For the purposes of Article 3 (3) (b) of Regulation (EEC) No 1224/80, the term 'marketing activities' means all activities relating to advertising and promoting the sale of the goods in question and all activities relating to warranties or guarantees in respect of them.

2. Such activities undertaken by the buyer shall be regarded as having been undertaken on his own account

Article 9

Where containers referred to in Article 8 (1) (a) (ii) of Regulation (EEC) No 1224/80 are to be the subject of repeated importations, their cost shall, at the request of the declarant, be apportioned, as appropriate, in accordance with generally accepted accounting principles.

Article 10

For the purposes of Article 8 (1) (b) (iv) of Regulation (EEC) No 1224/80, the cost of research and preliminary design sketches is not to be included in the customs value.

Article 11

In applying Article 8 (1) (c) of Regulation (EEC) No 1224/80, the country of residence of the recipient of the payment shall not be a material consideration.

Article 12

This Regulation shall enter into force on 1 July 1980.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 1980.

For the Commission
Étienne DAVIGNON
Member of the Commission

COMMISSION REGULATION (EEC) No 1496/80

of 11 June 1980

on the declaration of particulars relating to customs value and on documents to be furnished

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes ⁽¹⁾, and in particular Article 16 thereof,

Whereas Article 16 of Regulation (EEC) No 1224/80 provides that the particulars and documents to be furnished to the customs authorities for the purposes of the application of that Regulation shall where necessary be determined in accordance with the procedure laid down in Article 19 thereof;

Whereas it is necessary to ensure that importers are treated alike as regards particulars to be declared and as regards documents to be furnished;

Whereas the particulars to be furnished in the specimen form shown in the Annex will be sufficient in most cases to indicate the terms of the transaction; whereas, however, more detailed information may be necessary, in particular where customs value is to be determined on a basis other than the transaction value referred to in Article 3 of Regulation (EEC) No 1224/80;

Whereas it is necessary in certain cases to provide for exemptions and reliefs concerning the declaration of particulars relating to customs value; whereas, in particular, it may be unnecessary to require that such particulars are furnished where the value of the imported goods is below a certain limit;

Whereas it is desirable for the sake of simplicity to express in national currencies and in round figures the limit of value fixed by this Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Customs Valuation Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the purposes of the application of Regulation (EEC) No 1224/80, a declaration of particulars relating to customs value in a form corresponding to the specimen (D.V.1) in the Annex hereto shall accompany

the entry form for release for free circulation made in respect of the goods in question.

2. It shall be a particular requirement that the declaration of particulars relating to customs value prescribed in paragraph 1 shall be made only by a person (hereinafter referred to as 'the declarant') who has his residence or place of business in the customs territory of the Community and is in possession of the relevant facts.

3. Member States may waive the requirement of a declaration in the form specified in paragraph 1 where the customs value of the goods in question cannot be determined under the provisions of Article 3 of the said Regulation (EEC) No 1224/80. In such cases the declarant shall furnish or cause to be furnished to the customs administration concerned such other information as may be requested for the purposes of determining the customs value under another Article of the said Regulation; and such other information shall be supplied in such form and manner as may be prescribed by the customs administration concerned.

Article 2

1. Member States may waive the requirements of Article 1 (1), whether in whole or in part:

- (a) where the value of the imported goods in a consignment does not exceed, as appropriate, Bfrs 70 000, Dkr 12 000, DM 4 000, FF 10 000, Lit 2 000 000, Fl 4 500, £ 1 000, £Irl 1 000, provided that they do not constitute split or multiple consignments from the same consignor to the same consignee;
- (b) where the goods involved are not of a commercial nature; or
- (c) where the nature of the customs procedure to which the goods are subject does not require submission of the particulars in question.

2. In the case of continuing traffic in goods supplied by the same seller to the same buyer under the same commercial conditions, Member States may waive the requirement that all particulars under Article 1 (1) be furnished in support of each entry for release for free circulation, but shall require them whenever the circumstances change and at least once every three years.

3. Article 1 shall not apply in respect of goods for which a simplified procedure in accordance with Article 22 (4) and (5) of Regulation (EEC) No 1224/80 is established.

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

Article 3

Where computerized systems are used, Member States may authorize variations in the form of presentation of data required for the determination of customs value.

Article 4

1. The declarant shall furnish the customs authorities with a copy of the invoice on the basis of which the value of the imported goods is declared. Where the customs value is declared in writing this copy shall be retained by the customs authorities.

2. In the case of written declarations of the customs value, when the invoice for the imported goods is made out to a person established in a Member State other than

that in which the customs value is declared, the declarant shall furnish the customs authorities with two copies of his invoice. One of these copies shall be retained by the customs authorities; the other, bearing the stamp of the customs authorities and the customs serial number of the declaration shall be returned to the declarant for forwarding to the person to whom the invoice is made out.

3. Member States may extend the provisions of paragraph 2 to cases where the person to whom the invoice is made out is established in the Member State in which the customs value is declared.

Article 5

This Regulation shall enter into force on 1 July 1980.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 1980.

For the Commission
Étienne DAVIGNON
Member of the Commission

DECLARATION OF PARTICULARS RELATING TO CUSTOMS VALUE

D. V. 1

<p>1 Buyer _____</p>	<p>FOR OFFICIAL USE</p>
<p>2 Seller _____</p>	
<p>3 Number and date of invoice _____</p>	
<p>4 Number and date of contract _____</p>	<p>5 Terms of delivery (e.g. FOB New York) _____</p>
<p>6 Number and date of any previous Customs decision concerning boxes 7 to 9 _____</p>	
<p>7 (a) Are the buyer and seller RELATED in the sense of Article 1 (2) * of Regulation (EEC) No 1224/80? If "NO", go to box 8</p> <p style="text-align: right;">Enter X where applicable <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>(b) Did the relationship INFLUENCE the price of the imported goods?</p> <p style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>(c) Does the transaction value of the imported goods CLOSELY APPROXIMATE to a value mentioned in Article 3(2)(b) of Regulation (EEC) No 1224/80? If "YES", give details:</p> <p style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	
<p>8 (a) Are there any RESTRICTIONS as to the disposition or use of the goods by the buyer, other than restrictions which</p> <ul style="list-style-type: none"> - are imposed or required by law or by the public authorities in the Community, - limit the geographical area in which the goods may be resold, or - do not substantially affect the value of the goods? <p style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>(b) Is the sale or price subject to some CONDITION or CONSIDERATION for which a value cannot be determined with respect to the goods being valued?</p> <p style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p><i>Specify the nature of the restrictions, conditions or considerations as appropriate.</i> <i>If the value of conditions or considerations can be determined, indicate the amount in box 11(b) overleaf.</i></p>	
<p>9 (a) Are any ROYALTIES and LICENCE FEES related to the imported goods payable either directly or indirectly by the buyer as a condition of the sale?</p> <p style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>(b) Is the sale subject to an arrangement under which part of the proceeds of any subsequent RESALE, DISPOSAL or USE accrues directly or indirectly to the seller?</p> <p style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p><i>If "YES" to either of these questions, specify conditions and, if possible, indicate the amounts in boxes 15 and 16 overleaf:</i></p>	

* PERSONS SHALL BE DEEMED TO BE RELATED ONLY IF:

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognised partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

10 I, the undersigned, declare that all particulars given in this document are true and complete.

Place:

Date:

Signature:

Declarant:

		Item	Item	Item
A. Basis of calculation	11 (a) Net price in CURRENCY OF INVOICE (Price actually paid or price payable for settlement at the material time for valuation for customs purposes)			
	(b) Indirect payments - see box 8(b) overleaf. (rate of exchange)			
	12 Total A in NATIONAL CURRENCY			
B. ADDITIONS: Costs in NATIONAL CURRENCY NOT INCLUDED in A above * <i>QUOTE BELOW previous relevant Customs decisions, if any:</i>	13 Costs incurred by the buyer:			
	(a) commissions, except buying commissions			
	(b) brokerage			
	(c) containers and packing			
	14 Goods and services supplied by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods:			
	<i>The values shown represent an apportionment where appropriate</i>			
	(a) materials, components, parts and similar items incorporated in the imported goods			
	(b) tools, dies, moulds and similar items used in the production of the imported goods			
	(c) materials consumed in the production of the imported goods			
	(d) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Community and necessary for the production of the imported goods			
	15 Royalties and licence fees - see box 9(a) overleaf			
	16 Proceeds of any subsequent resale, disposal or use accruing to the seller - see box 9(b) overleaf			
	17 Costs of delivery to (place of introduction)			
	(a) transport			
	(b) loading and handling charges			
(c) insurance				
18 Total B				
C. DEDUCTIONS: Costs in NATIONAL CURRENCY INCLUDED in A above *	19 Costs of transport after importation			
	20 Charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation			
	21 Other charges (specify)			
	22 Customs duties and taxes payable in the Community by reason of the importation or sale of the goods			
	23 Total C			
	24 VALUE DECLARED (A - B - C)			

* Where amounts are payable in FOREIGN CURRENCY, indicate in this section the amount in foreign currency and the rate of exchange by reference to each relevant element and item.

Reference

Amount

Rate of exchange