

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

VAL/1/Add.3*

23 January 1981

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Committee on Customs Valuation

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Addendum

Legislation of Sweden

*English only. The original text in Swedish has been submitted to the secretariat (Non-Tariff Measures Division) where it can be consulted.

Ordinance on Customs value

of 25 September 1980.

The Government prescribes the following.

Chapter 1. Introductory provisions

1 § When according to the Customs-Tariff (1977:975) duty shall be calculated on the value of the goods, this value (customs value) shall be determined in accordance with this Ordinance.

The customs value shall primarily be determined under the provisions of Chapter 2. If these provisions are not applicable the customs value shall be determined under the provisions of Chapters 3, 4, 5, 6 and 7, applied in sequential order.

If the importer so requests the order of application of Chapters 5 and 6 shall be reversed.

2 § In this Ordinance:

- (1) transaction value means the price actually paid or payable for the goods when sold for export to Sweden, adjusted in accordance with the provisions of 3 § of Chapter 2 and of Chapter 8. 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;
- (2) buyer and seller shall be deemed to be related only if they are officers or directors of one another's businesses,

they are legally recognized partners in business,
they are employer and employee,
they are members of the same family,
any person directly or indirectly owns, controls or
holds 5 per cent or more of the outstanding voting
stock or shares of both of them,
one of them directly or indirectly controls the other,
both of them are directly or indirectly controlled by a
third person,
together they directly or indirectly control a third
person.

Buyer and seller who are associated in business with one
another in that one is the sole agent, sole distributor or
sole concessionaire of the other shall be deemed to be
related if they fall within the above criteria;

- (3) identical goods means goods produced in the same country
and which are the same in all respects, including
physical characteristics, quality and reputation. Minor
differences in appearance would not preclude goods
otherwise conforming to the definition from being
regarded as identical;
- (4) similar goods means goods which are produced in the same
country and 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
trade mark are among the factors to be considered
in determining whether goods are similar;
- (5) goods of the same class or kind means goods which fall
within a group or range of goods produced by a parti-
cular industry or industry sector, and includes identical
and similar goods;
- (6) port or place of importation means for goods carried
by sea or by air the port in which the goods are un-
loaded from the vessel or the aircraft, and for goods
carried by other means of transport the first place
in the customs territory to which the goods are brought.

Chapter 2. Transaction value of the imported goods

1 § The customs value shall be the transaction value of the imported goods, provided

- (1) that there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which are imposed or required by law or by the public authorities in Sweden, which limit the geographical area in which the goods may be resold or which do not substantially affect the value of the goods;
- (2) that the sale or price is not subject to some condition or consideration for which a value cannot be determined;
- (3) 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 the provisions of 1 § of Chapter 8; and
- (4) 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 the provisions of 2 § of Chapter 2.

2 § Even if the buyer and seller are related the transaction value shall be accepted and the customs value determined under the provisions of 1 § of Chapter 2 if

- (1) the relationship did not influence the price provided that this is proved by an examination of the sale; or
- (2) the importer demonstrates that the transaction value closely approximates to either the transaction value in sales to unrelated buyers of identical or similar goods for export to Sweden, occurring at or about the same time, or the customs value of identical or similar goods as determined at or about the same time under the provisions of Chapters 5 or 6.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, costs, values, royalties and charges enumerated in 1 and 2. §§ of Chapter 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.

3 § In applying this Chapter the following charges or costs shall not be included in the customs value, provided that they can be distinguished from the price actually paid or payable for the goods:

- (1) costs of construction, erection, assembly, maintenance and technical assistance, undertaken after importation on such imported goods as industrial plant, machinery or equipment;
- (2) the cost of transport after importation;
- (3) duties and taxes in Sweden;
- (4) forwarding charges in Sweden.

Chapter 3. Transaction value of identical goods

1 § If the customs value cannot be determined under the provisions of Chapter 2, the customs value shall be the transaction value of identical goods sold for export to Sweden and exported at or about the same time as the goods being valued. In this connection the transaction value of identical goods means the customs value which has been determined under Chapter 2, adjusted to take account of differences in distances and modes of transport and in accordance with the provisions of the second paragraph.

In applying this Chapter, 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 primarily. 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 of the adjustment.

If, in applying this Chapter, 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.

Chapter 4. Transaction value of similar goods

1 § If the customs value cannot be determined under the provisions of Chapters 2 or 3 the customs value shall be the transaction value of similar goods sold for export to Sweden and exported at or about the same time as the goods being valued. In this connection the transaction value of similar goods means the customs value which has been determined under Chapter 2, adjusted to take account of differences in distances and modes of transport and in accordance with the provisions of the second paragraph.

In applying this Chapter, 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 primarily. 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 of the adjustment.

If, in applying this Chapter, 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.

Chapter 5. Customs value based on the selling price in Sweden

1 § If the customs value cannot be determined under the provisions of Chapters 2, 3 or 4, the customs value shall be determined

under the provisions of this Chapter, unless the third paragraph of 1 § of Chapter 1 shall be applied.

2 § If the imported goods or identical or similar imported goods are sold in Sweden in the condition as imported, the customs value shall be based on the unit price at which the imported goods or identical or similar imported goods are 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 seller, subject to deductions for the following:

- (1) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in Sweden of imported goods of the same class or kind;
- (2) the usual costs of transport and insurance and associated costs incurred within Sweden;
- (3) the customs duties and other national taxes payable in Sweden by reason of the importation or sale of the goods; and
- (4) forwarding charges in Sweden.

3 § If neither the imported goods nor identical nor similar imported goods are sold in Sweden at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of 2 § of this Chapter, be based on the unit price at which the imported goods or identical or similar imported goods are sold in Sweden in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of ninety days after such importation.

4 § If neither the imported goods nor identical nor similar imported goods are sold in Sweden in the condition as imported, then, if the importer so requests, the customs value shall, sub-

Subject furthermore to the provisions of 2 § of this Chapter, be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Sweden who are not related to the seller, due allowance being made for the value added by such processing and the deductions provided for in 2 § of this Chapter.

Chapter 6. Customs value based on the production value

1 § If the customs value cannot be determined under the provisions of Chapters 2, 3 or 4 or - unless the third paragraph of 1 § of Chapter 1 shall be applied - Chapter 5, the customs value shall be based on a computed value (production value). The production value consists of the sum of:

- (1) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (2) 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 Sweden; and
- (3) the cost or value of all other expenses referred to in 2 § of Chapter 6.

Chapter 7. Customs value determined using reasonable means

1 § If the customs value of the imported goods cannot be determined under the provisions of Chapters 2 to 6, inclusive, the customs value shall be determined using reasonable means consistent with the principles and general provisions of this Ordinance and of Article VII of the General Agreement on Tariffs and Trade (GATT) and on the basis of data available in Sweden.

2 § No customs value shall be determined under the provisions of 1 § of this Chapter on the basis of:

- (1) the selling price in Sweden of goods produced in Sweden;
- (2) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (3) the price of goods on the domestic market of the country of exportation;
- (4) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Chapter 6;
- (5) the price of the goods for export to a country other than Sweden;
- (6) minimum customs values; or
- (7) arbitrary or fictitious values.

Chapter 3. Costs etc. to be included in customs value

1 § In determining the customs value under the provisions of Chapter 2, there shall be added to the price actually paid or payable for the imported goods:

- (1) 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:
 - (a) commissions and brokerage, except buying commissions;
 - (b) the cost of containers which are treated as being one for customs purposes with the goods in question;
 - (c) the cost of packing whether for labour or materials;
- (2) 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:
 - (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 Sweden and necessary for the production of the imported goods;
- (3) 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;
- (4) 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.

2 § Customs value shall include:

- (1) the cost of transport of the imported goods to the port of place of importation;
- (2) loading, unloading and handling charges associated with the transport of the imported goods to the port of place of importation; and
- (3) the cost of insurance.

3 § No additions shall be made to the price actually paid or payable in determining the customs value except as provided in 1 and 2 §§ of this Chapter.

Chapter 9. Special provisions

1 § If it is demonstrated that the imported goods have been damaged before the time referred to in 6 a § of the Customs law (1973:670), account may be taken to the reduction of the value of the goods in determining the customs value.

2 § If the customs value is based on amounts which are expressed in a foreign currency, the conversion to Swedish crowns shall be made according to regulations issued by the Board of Customs

in consultation with the Bank of Sweden.

5 § Further provisions concerning the application of this Ordinance shall be issued by the Board of Customs, taking into consideration the Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (GATT).

This Ordinance shall enter into force on 1 January 1981..

Instructions to the Ordinance (1980:749) on customs value
issued by the Board of Customs on 9 October 1980

Under the provisions of 3 § of Chapter 9 of the Ordinance on customs value the Board of Customs prescribes the following.

General Note

Use of generally accepted accounting principles

1. For the purposes of the Ordinance on customs value, the customs authorities shall utilize information prepared in a manner consistent with generally accepted accounting principles in the country which is appropriate for the provision in question. For example, the determination of usual profit and general expenses under the provisions of 2 § of Chapter 5 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles in Sweden. On the other hand, the determination of usual profit and general expenses under the provisions of 1 § of Chapter 6 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of production. Furthermore, the value of such tools, dies, moulds and similar items delivered from Sweden and used in the production of the imported goods, as shall be included in the customs value under the provisions of 1 §(2)(b) of Chapter 8, shall be determined utilizing information prepared in a manner consistent with generally accepted accounting principles in Sweden.

2. "Generally accepted accounting principles" refers in the recognized consensus or substantial authoritative support within a country at a particular time. These standards may be broad guidelines of general application as well as detailed practices and procedures.

Cash discount

Cash discount may be deducted in determining the customs value. If different rates of discount may be applicable, deduction is

allowed according to the highest rate. Cash discount exceeding 4 % may be deducted only if it is actually applied.

Note to Chapter 1

To 1 §

If the importer does not request that the order of Chapters 5 and 6 be reversed, the normal order of the sequence is to be followed. Of the importer does so request but it then proves impossible to determine the customs value under the provisions of Chapter 6, the customs value is to be determined under the provisions of Chapter 5, if it can be so determined.

To 2 §

1. 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. Payment may be made directly or indirectly. 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.

Activities undertaken by the buyer on his own account, other than those for which an adjustment is provided in Chapter 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the customs value.

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 transaction value.

2. One person shall be deemed to control another person when the former is legally or operationally in a position to exercise restraint or direction over the latter.

3. The word produced includes grown and mined.

Note to Chapter 2

To 1 § (2)

The requirement that the sale or price shall not be subject to some condition or consideration for which a value cannot be determined refers to such cases where the actual value can not be determined with respect to the imported goods. Consequently, the transaction value shall not be accepted if

(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.

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 Sweden shall not result in rejection of the transaction value for the purposes of 1 § (2) of Chapter 2. Likewise, if the buyer undertakes on his own account, even though by agreement with the seller, activities relating to the marketing of the imported goods, the value of these activities is not part of the customs value nor shall such activities result in rejection of the transaction value.

To 2 § (1)

1. An examination of a sale in a case where the buyer and the seller are related will only be required where there are doubts about the acceptability of the price. Where the customs authorities have no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the customs authorities 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. .

2. Where it can be shown that the buyer and seller, although related under the provisions of 2 § of Chapter 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.

3. Where a test under 2 § (2) is met, it is not necessary to examine the question of influence under 2 § (1). If the customs authorities have already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in 2 § (2) has been met, there is no reason for it to require the importer to demonstrate that the test can be met.

To: § (2)

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 2 § (2).

Note to Chapters 3 and 4

1. For the purposes of 1 § of Chapter 3 and 1 § of Chapter 4, the transaction value of identical or similar imported goods means a customs value, adjusted as provided for in the second paragraph of the respective sections and with account taken to significant differences in such costs as are mentioned in 2 § of Chapter 8, between the imported goods and the identical or similar imported goods arising from differences in distances and modes of transport. The customs value for the identical or similar imported goods shall already have been accepted under the provisions of Chapter 2.

2. In applying 1 § of Chapter 3, and 1 § of Chapter 4, the customs authorities shall, wherever possible, use a sale of identical or similar goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of identical or similar goods that takes place under any one of the following three conditions may be used:

- (a) a sale at the same commercial level but in different quantities;
- (b) a sale at a different commercial level but in substantially the same quantities; or
- (c) a sale at a different commercial level and in different quantities.

3. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:

- (a) quantity factors only;
- (b) commercial level factors only; or
- (c) both commercial level and quantity factors.

4. The expression "and/or" allows the flexibility to use any sale described under (2) and then make the necessary adjustments described under (3).

5. 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 reliable demonstrated evidence, e.g. valid price lists containing prices referring to different levels or different quantities. In the absence of such evidence the provisions of Chapter 3 or 4 are not applicable in determining the customs value.

Note to Chapter 5

1. The term unit price at which ... goods are sold in the greatest aggregate quantity means 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.

2. Any sale in Sweden, as described in (1) above, 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 to Sweden of the imported goods any of the elements specified in 1 § (2) of Chapter 8, should not be taken into account in establishing the unit price for the purposes of Chapter 5.

3. Profit and general expenses referred to in 2 § (1) of Chapter 5 shall 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 Sweden 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.

4. General expenses include the direct and indirect costs of marketing the goods in question.

5. In determining either the commissions or the usual profits and general expenses under the provisions of 2 § (1) of Chapter 5, the question whether certain goods are of the same class or kind as other must be determined on a case-by-case basis by reference to the circumstances involved. Sales in Sweden 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 Chapter 5, 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.

6. For the purposes of 3 § of Chapter 5, 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

7. Where the method in 4 § of Chapter 5 is used, deductions made for the value added by further processing shall be based on accepted industry formulas, recipes, methods of construction, and other industry practices.

8. The method of valuation provided for in 4 § of Chapter 5 should 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. 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 Sweden that the use of the valuation method provided for in 4 § of Chapter 5 would be unjustified.

Note to Chapter 6

1. 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.

2. No authority may require or compel any person not resident in Sweden 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 the provisions of this Chapter may be verified in another country by Swedish authorities with the agreement of the producer and provided they give sufficient advance notice to the government of the country in question and the latter does not object to the investigation.

3. The cost of value referred to in 1 § (1) of Chapter 6 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.

4. The cost or value shall include the cost of elements specified in 1 § (b) and (c) of Chapter 8. It shall also include the value, apportioned as appropriate under the provisions of the relevant note to Chapter 8, of any element specified in 1 § (2) of Chapter 8 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 1 § (2)(d) of Chapter 8 which are undertaken in Sweden shall be included only to the extent that such elements are charged to the producer. No cost or value of the elements referred to in this paragraph shall be counted twice in determining the computed value.

5. The amount for profit and general expenses referred to in 1 § (2) of Chapter 6 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 from the country of exportation to Sweden of goods of the same class or kind as the goods being valued.

6. 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 Sweden 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 Sweden 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 Sweden, 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.

7. 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 - with due observance of the secrecy rules - inform the importer, if the latter so requests, of the source of such information, the data used and the calculations based upon such data.

8. The general expenses referred to in 1 § (2) of Chapter 6 covers the direct and indirect costs of producing and selling the goods for export which are not included under 1 § (1) of Chapter 6.

9. 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 Chapter 6, sales for export to Sweden 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 Chapter 6, goods of the same class or kind must be from the same country as the goods being valued.

Note to Chapter 7

1. Customs values determined under the provisions of Chapter 7 should, to the greatest extent possible, be based on previously determined customs values.

2. The methods of valuation to be employed under Chapter 7 should be those laid down in Chapters 2 to 6, inclusive, but a reasonable flexibility in the application of such methods should be applied.

3. The requirement that the identical or similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical or 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 identical or similar imported goods already determined under the provisions of Chapters 5 and 6 could be used.

The requirement that the goods shall have been sold in the "condition as imported" in 2 § of Chapter 5 could be flexibly interpreted; the "ninety days" requirement could be administered flexibly.

4. The selling price referred to in 2 §(1) of Chapter 7 means the selling price in the Swedish market.

5. For goods imported for hire or leasing the following will apply. If the provisions under Chapter 5 to 6, inclusive, cannot be applied, the customs value shall be determined under the provisions of Chapter 7. The following method should then be used. If the importer has had an option to buy the goods instead of hiring them, the customs value shall be based on the option price. If such a price does not exist the customs value shall be based on the cash value of the aggregate rentals during the estimated economic lifetime of the goods. Charges and costs referred to in 3 § of Chapter 2 shall be deducted from the hire charges. At the calculation of the cash value, the interest rate referred to in 20 a § of the Customs Law (1973:670), at the time stated in 6 a § of the Customs law, shall be applied.

Note to Chapter 3

To 1 § (1)(a)

The term buying commissions means fees paid by an importer to his agent for the service of representing him abroad in the purchase of the goods being valued.

To 1 § (2)(b)

1. The ascertainment of the value of tools, dies, moulds and similar elements to the imported goods should be made in a manner appropriate to the circumstances and in accordance with generally accepted accounting principles.

2. 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 downward to reflect its use in order to arrive at the value of the element.

3. Various possibilities exist in apportioning the value of the element to the imported goods. 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.

To 1 § (2)(d)

1. Additions for the value of engineering and similar work should as far as possible be based on data readily available in the buyer's commercial record system.

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. 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 Sweden.

To 1 § (3)

1. The royalties and licence fees referred to in 1 § (3) of Chapter 3 have connection to the imported goods and may include, among other things, payments in respect to patents, trademarks and copyrights. However, the charges for the right to reproduce the imported goods in Sweden shall not be added to the price actually paid or payable for the imported goods in determining the customs value.

2. 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 Sweden of the imported goods.

3. Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of Chapter 8, the transaction value cannot be determined under the provisions of Chapter 2.

Note to Chapter 9

To 1_§

A reduction of the value for damaged goods shall be admitted irrespective of whether the seller or the buyer has to pay the costs for the damage. For example, the reduction of the value may be calculated on the basis of the credit given by the seller, compensation given by an insurance company or the cost of repairing the goods.

To 2_§

Where the seller and the buyer have reached an agreement on a certain rate of exchange for foreign currency, this rate shall be applied for the determination of the customs value.

Where such an agreement has not been made the selling rate of exchange quoted by the bank Post- och Kreditbanken on the last business day of a certain month shall be applied for goods presented for customs clearance, as said in § 2 a § of the Customs Law, during the period from the sixth day of the next month to the fifth day of the following month, inclusive.

If such a selling rate is subject to a change, caused by a currency authority or otherwise is altered to a considerable extent during the period, the Board of Customs shall decide the rate of exchange for the currency in question to be applied for the remaining part of the period.

If a selling rate has not been quoted the matter shall be

submitted to the Board of Customs for a decision.

These provisions shall enter into force on 1 January 1981.