

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Customs Valuation

## INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

### Addendum

### Legislation of Norway

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

Unofficial translation.

## § 1 (definitions) x)

In these regulations:

- "Customs value of imported goods" 1. a) "customs value of imported goods" means the value of goods for the purposes of levying ad valorem duties of customs on imported goods;
- "Produced" b) "produced" includes grown, manufactured and mined;
- "Identical goods" 2. a) "identical goods", means goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods from being regarded as identical;
- "Similar goods" b) "similar goods" means goods 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 taken into consideration.
- Goods shall not be regarded as "identical goods" or "similar goods" unless they were produced in the same country as the goods being valued.
- "Goods of the same class or kind" 3. "goods of the same class or kind" means goods, including identical-or similar goods, which fall within a group or range of goods produced by a particular industry or industry sector.
- "Relationship between buyer and seller" 4. "relationship between buyer and seller" only refer to such relationships where:
- 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;

x) § 1, read: Section 1 (Note added in the unofficial translation)

- d) 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;
- 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.

Sole agent, sole distributor,  
sole concessionaire

Persons 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 criteria of item 4 of this section.

## § 2 (The transaction value of imported goods)

The transaction value

1. The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to Norway, adjusted in accordance with the provisions of § 9, provided that:

Restrictions

- a) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which:
  1. are imposed or required by law or by the public authorities in Norway;
  2. limit the geographical area in which the goods may be resold; or
  3. do not substantially affect the value of the goods;

Condition or consideration

b) the sale or price is not subject to some condition or consideration for which a value can not be determined;

Part of proceeds

c) 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 § 9; and

Not related

d) the buyer and seller are not related, or where they are related, that the transaction value is acceptable for customs purposes under the provisions of item 2 of this section.

Values for comparison

2. a) The transaction value is acceptable for the purposes of item 1, when an examination of the sale demonstrates that the relationship did not influence the price, or

b) whenever the importer demonstrates that such value closely approximates to one of the following values occurring at or about the same time:

1. the transaction value in sales to unrelated buyers of identical or similar goods for export to Norway;
2. the customs value of identical or similar goods as determined under the provisions of § 6;
3. the customs value of identical or similar goods as determined under the provisions of § 7;

If the importer chooses to make use of these values for comparison, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in § 9 and costs incurred by the seller in sales in which he and the buyer are not related and that are not incurred by the seller in sales in

which he and the buyer are related.

Note to § 2.

The price actually  
paid or payable

The price actually paid or payable is the total payment which 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. 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 § 9, 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.

Charges or costs  
not included in the  
customs value

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

- a) costs of construction, erection, assembly, maintenance or technical assistance, undertaken after importation on industrial plant, machinery or equipment;
- b) the cost of transport after importation;
- c) duties and taxes in Norway.

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.

Restrictions which do not substantially affect the value

Item 1 a)

Restrictions which do not substantially affect the value of the goods, shall not render the price actually paid or payable unacceptable. Such restrictions 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.

Condition, or consideration

Item 1 b)

If the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued, the transaction value shall not be acceptable for customs purposes.

Examples

Some examples of this include:

- 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 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.

Costs for marketing etc. are not part of the transaction value

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 Norway, shall not result in rejection of the transaction value for the purposes of § 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.

Item 2 b)

Test value

Item 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 § 2.

§ 3 (The transaction value of identical goods)

The transaction value  
of identical goods

1 a) If the customs value of imported goods cannot be determined under the provisions of § 2, the customs value shall be the transaction value of identical goods sold for export to Norway and exported at or about the same time as the goods being valued.

Identical goods  
sold at different  
conditions

b) In applying this section, the transaction value of identical goods in a sale at the same commercial level and 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 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 decrease in the value.

Differences in  
costs and charges

2. Where the costs and charges referred to in § 9.2 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.

The lowest  
transaction value

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

Notes to § 3 are placed after § 4

#### § 4 (The transaction value of similar goods)

The transaction  
value of similar goods

- 1 a) If the customs value of imported goods cannot be determined under the provisions of §§ 2 and 3, the customs value shall be the transaction value of similar goods sold for export to Norway and exported at or about the same time as the goods being valued.

Similar goods  
sold at different  
conditions

- b) In applying this article, the transaction value of similar goods in a sale at the same commercial level and 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 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 decrease in the value.



Differences in  
costs and charges

2. Where the costs and charges referred to in § 9.2 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 similar goods in question arising from differences in distances and modes of transport.

The lowest  
transaction  
value

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

Adjustments of  
differences  
in commercial levels  
and quantities

#### Notes to §§ 3 and 4

1. In applying §§ 3 and 4, the customs administration shall, wherever possible, use a sale of identical/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/similar goods may be used when it takes place:

a) at the same commercial level but in different quantities;

b) at a different commercial level but in substantially the same quantities;

c) at a different commercial level and in different quantities.

2. Having found a sale according to any one of these conditions, adjustments will be made for:

a) quantity factors only;

b) commercial level factors only; or

c) both commercial level and quantity factors.

Condition for  
adjustment of the  
value

3. For the purpose of §§ 3 and 4, the transaction value of identical/similar imported goods means a custom value, adjusted as provided for in items 1 b) and 2 of these §§, which has already been accepted under § 2.

4. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or decrease in the value, be made only when there is a reasonable and accurate basis of the adjustment, e.g. valid price list containing prices referring to different levels or different quantities. In the absence of such a measure the determination of the customs value under the provisions of §§ 3 and 4 is not appropriate.

#### § 5 (The importer's choice of §§ 6 and 7)

The importers  
choice

If the customs value of the imported goods cannot be determined under the provisions of §§ 2,3 and the customs value shall be determined under the provisions of § 6 or, when the customs value cannot be determined under that section, under the provision of § 7. At the request of the importer, the order of application of §§ 6 and 7 shall be reversed.

#### § 6 (The customs value based on sale in Norway)

The selling price  
as basis for deter-  
mination of the  
value

1 a) If the imported goods or identical or similar imported goods are sold in Norway in the condition as imported, the customs value of the imported goods under the provisions of this section 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 anyone who are not related to the seller, subject to deductions for the following:

**Deductions**

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 Norway of imported goods of the same class or kind;
2. the usual costs of transport and insurance and other costs in Norway;
3. the customs duties and other national taxes payable in Norway.

**Postponement of  
valuation**

- 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 shall, subject otherwise to the provisions of item 1 a) of this section be based on the unit price at which the imported goods or identical or similar imported goods are sold in Norway 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.

**Goods sold after  
further processing**

2. If neither the imported goods nor identical nor similar imported goods are sold in Norway 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 Norway who are not related to the seller. Due allowance being made for the value added by such processing and the deductions provided for in item 1 a) of this section

Note to § 6

The unit price

1. The term "unit price at which the goods in question are sold in the greatest aggregate quantity", means the price at which the greatest number of units is sold to persons who are not related to the seller, at the first commercial level after importation.

2. A sale in Norway as described in item 1 above to a person who supplies directly or indirectly such goods and services specified in § 9. 1 b), should not be taken into account in establishing the unit price for the purposes of § 6.

"Profit and general expenses"

3. "Profit and general expenses" referred to in § 6. 1 a) 1, 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 Norway 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.

Local taxes

4. Local taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of § 6. 1 a) 3, shall be deducted under the provisions of § 6. 1 a) 1

"Goods of the same class or kind"

5. In determining either the commissions or the usual profits and general expenses under the provisions of § 6. 1 a) 1, 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 Norway 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 § 6, "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.

"Earliest date"

6. For the purposes of § 6. 1 b), the "earliest date" shall be the date by which sales of imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

Value of further  
processing

7. Where the method in § 6.2 is used, deduction 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.

8. The method of valuation provided for in § 6.2 would normally not be applicable when as a result of 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 Norway 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.

§ 7 (Computed value)

Computed value

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

Costs according  
to production

- a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

Profit and general  
expenses

- b) 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 Norway;

Cost  
(see § 9.2)

- c) the cost or value of all other expenses which has to be taken into consideration in accordance with the provisions of § 9.2.

Examination/  
limitation

2. No authority may require or compel any person not resident in Norway to produce for examination, 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 section may be verified in another country by the Norwegian 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.

Note to § 7

The basis of  
information

1. The "cost or value" referred to in § 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.

2. The "cost or value" shall include the cost of elements specified in § 9. 1 a), 2 and 3.  
It shall also include the value, apportioned as appropriate under the provisions of the relevant note to § 9, of any element specified in § 9. 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 § 9.1 b)4. which are undertaken in Norway, 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 item shall be counted twice in determining the computed value.
3. The "amount for profit and general expenses" referred to in § 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 eksportation for export to Norway.
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 administration shall inform the importer, if he so requests, of the source of such information, the data used and the calculations based upon such data. Such information can only be given subject to provisions concerning confidential matters.
5. The "general expenses" referred to in § 7.1 b) covers the direct and indirect costs of producing and selling the goods for export which are not included under § 7. 1 a).

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 § 7, sales for export to Norway 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 § 7, "goods of the same class or kind" must be from the same country as the goods being valued.

§ 8 (The customs value determined using reasonable means)

The customs value  
determined using  
reasonable means

Not acceptable  
basis

1. If the customs value of the imported goods cannot be determined under the provisions of §§ 2 to 7 inclusive, the customs value shall be determined using reasonable means consistent with the principles and general provisions of these regulations and of Article VII of the General Agreement and on the basis of data available in Norway.
2. No customs value shall be determined under the provisions of this article on the basis of:
  - a) the selling price of goods produced in Norway;
  - b) a system which provides for acceptance for customs purposes of the higher of two alternative values;
  - c) the price of goods on the domestic market of the country of exportation;
  - d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of § 7;



- e) the price of the goods for export to a country other than Norway;
  - f) minimum customs values; or
  - g) arbitrary or fictitious values.
3. If he so requests, the importer shall be informed in writing of the customs value determined under the provisions of this section and the method used to determine such value.

**Note to § 8**

1. Customs values determined under the provisions of § 8 should, to the greatest extent possible, be based on previously determined customs values.
2. The methods of valuation to be employed under § 8 should be those laid down in §§ 2 to 8 inclusive, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of § 8.

**§ 9 (Elements included in the customs value)**

Elements included in  
the customs value

1. In determining the customs value under the provisions of § 2, 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:

Commissions

1. Commissions and brokerage, except buying commissions;

Cost of containers

2. the cost of containers which are treated as being one for customs purposes with the goods in question;

**Cost of packing**

3. the cost of packing whether for labour or materials;

The value of goods and services supplied free of charge or at reduced costs

b) the value 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:

1. materials, components, parts and similar items incorporated in the imported goods;
2. tools, dies, moulds and similar items used in the production of the imported goods;
3. materials consumed in the production of the imported goods;
4. engineering, development, artwork, design work and plans and sketches undertaken elsewhere than in Norway and necessary for the production of the imported goods;

**Royalties and licence fees**

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

**Any parts of the proceeds of resale or use of the goods**

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.

2. The customs value shall also include:

**The costs of transport and delivery**

a) the cost of transport of the imported goods to the place of importation. The expression "place of importation" shall be taken to be the Customs post or Customhouse at which the goods are disembarked or unloaded or, the case arising, the first Customs post or the first Customhouse at which the goods could actually have been originally disembarked or unloaded.

b) loading and handling costs associated with the transport of the imported goods to the place of importation; and

c) the cost of insurance.

Demand on data

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

Limitations of use

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

Note to § 9

Item 1 a) 1

"Buying commissions"

The term "buying commissions" means fees which the importer pays to his agent for the service of representing him abroad in the purchase of the goods being valued.

Item 1 b) 2

Apportionment

1. The factors involved in the apportionment of the elements specified in § 9. 1 b) 2 to the imported goods, are 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 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 has been previously used by the importer, regardless of whether it has been acquired or produced by him, the original cost of acquisition or production would have to be adjusted downward to reflect its use.

Objective and  
quantifiable  
data

Item 1 b) 4

1. Additions for the elements specified in § 9.1 b) 4 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. A firm may carry the cost of the design centre abroad as a general overhead expense without allocation to specific products. In such instance, an appropriate adjustment could be made under the provisions of § 9 with respect to the imported goods, either by apportioning total design centre costs over total production or adding such apportioned cost on a unit basis to imports.
4. 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 Norway.

Item 1 c)

Patents, trade-  
marks and copy-  
rights

1. The royalties and licence fees referred to in § 9.1 c) 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 Norway shall not be added to the price actually paid or payable for the imported goods.

The right to  
distribute or  
resell the im-  
ported goods

2. Payments made by the buyer for the right to dis-  
tribute or resell the imported goods shall not be  
added to the price actually paid or payable, if  
such payments are not a condition of the sale for  
export to Norway of the imported goods.

**§ 10 (The rate of exchange)**

The customs  
value in Norwegian  
currency, rate of  
exchange

1. Where the conversion of currency is necessary for  
the determination of the customs value, the rate  
of exchange to be used shall be that determined by  
the Directorate of Customs and Excise in agreement  
with the Ministry of Finance and Customs.
2. The conversion rate to be used shall be that in  
effect at the time of importation.

**Note to § 10**

For the purpose of § 10, "time of importation" means  
the time of entry for customs purposes.

**§ 11 (Damaged goods, goods in defective condition  
and goods not in accordance with order)**

Damaged goods

Where it is found that the goods are defective or  
damaged before customs clearance, a reduced price  
which reflects the damage would be the basis for the  
valuation.

Price reductions granted for goods which are not in  
accordance with the order, can be taken into consider-  
ation in determining the customs value.

Creditnotes or corrected invoices issued by the  
seller in order to adjust the sale, correspondingly,  
can be used as a basis for the calculation or re-  
calculation of the customs value.

When applying the provisions concerning damage or defective goods as mentioned under section one above, the Customs Authorities shall have the possibility for a physical examination of the goods. The goods must be cleared at the Customhouse as soon as the damage is demonstrated for the Customs.

**§ 12 (Delay of final determination of the customs value)**

Delay of the  
determination  
of the customs  
value

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.

**§ 13 (The obligation of the customs administration to give explanation in writing)**

The obligation to  
give explanation  
in writing

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

**§ 14 (Entry into force)**

This regulation shall enter into force on the 1 January 1981.