

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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6 November 1986

Special Distribution

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Committee on Customs Valuation

## INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

### Supplement

#### Legislation of Czechoslovakia

- (i) Decree of the Minister of Foreign Affairs of 20 August 1984 on the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade.
- (ii) Decree of the Federal Ministry of Foreign Trade of 14 August 1986 implementing the Customs Act No. 44/1974 Coll.: selected provisions concerning customs valuation.
- (iii) Instruction on customs valuation of 18 August 1986 of the Central Customs Administration of the Federal Ministry of Foreign Trade.

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\*English only/Anglais seulement/Inglés solamente.

**D e c r e e**  
**of the Minister of Foreign Affairs**  
**of 20 August 1984**  
**on the Agreement on Implementation of Article VII of the**  
**General Agreement on Tariffs and Trade and Protocol**

On April 12, 1979 the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade was concluded in Geneva and on November 1st, 1979 the Protocol to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade was concluded in Geneva.

On behalf of the Czechoslovak Socialist Republic the Agreement and the Protocol were signed in Geneva on April 2, 1984.

The Federal Assembly of the Czechoslovak Socialist Republic agreed with the Agreement and the Protocol and they were ratified by the President of the Czechoslovak Socialist Republic. The document of ratification was deposited with the depositary, the Director General of the Contracting Parties to the General Agreement on Tariffs and Trade on May 28, 1984.

The Agreement and the Protocol entered into force on January 1st 1981. For the Czechoslovak Socialist Republic they entered into force on June 27, 1984.

The Czech translation of the Agreement and of the Protocol are published at the same time.

The Minister:

/sgd/Ing. Chňoupek

The Notice contains furthermore the full wording of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade and of the Protocol to this Agreement.

**D e c r e e**  
**of the Federal Ministry of Foreign Trade**  
**of 14 August 1986**  
**implementing the Customs Act No 44/1974 Coll.**

**/ Selected provisions concerning customs valuation /**

**Section 29**

/1/ If the customs duty on commercial goods is assessed ad valorem, the basis shall be the actual price of the commercial goods. The actual price of commercial goods is the price for which the commercial goods was bought or sold in the trade country under normal commercial circumstances.

/2/ Part of the actual price of imported commercial goods, are the direct commercial costs arisen abroad in connexion with the transport to the state frontier of the Czechoslovak Socialist Republic. Direct commercial costs shall include the cost of transport, storage, insurance, commissions, material costs in connexion with fitting up abroad including costs of travelling and local expenditure, costs of taking over and inspection, costs of legalization of invoices, consular fees, interests from exchange credits, deficiencies of goods within the scope of criteria, shares in the prices of goods from production licences, discoveries and inventions, trade marks and industrial designs.

/3/ Part of the actual price of commercial goods shall not include internal taxes, applicable within the trade country, from which the imported goods have been exempted, or have been or will be relieved by means of refund to the exporter. The price of packing shall not be part of the actual price of commercial goods, provided that the packing is released separately from the commercial goods and if it is invoiced separately as well.

Part III

Section 33

Exemption and reduction of customs duties

/1/ The customs duty shall be released, if the commercial goods

- a/ have been entirely destroyed, damaged or irretrievably lost owing to accident or vis major before having been released for free circulation, or
- b/ which have been released for free circulation, but have been entirely destroyed damaged or irretrievably lost owing to accident or vis major during transport effected by a transport effected by a transport organization or post, or
- c/ which have been entirely destroyed with consent of the customs office and under customs supervision.

/2/ The customs duty shall be reduced, if

- a/ commercial goods have been so destroyed or damaged owing to accident or vis major that they cannot be used to the original purpose, after having been declared, but before having been released for free circulation, or
- b/ the nature of commercial goods which have been released for free circulation but have not yet been delivered to the receiver, has so changed that they would have been dutiable by a lower rate of duty than that which has been assessed, or
- c/ it is found that goods in a postal packet, which have been released for free circulation and delivered to the receiver, are partially destroyed, damaged or irretrievably lost.

/3/ On application of the party to customs proceedings the customs officer may consider the exemption of customs duty or its reduction as well in other cases than those mentioned in paragraphs 1 and 2, provided that

there are social, health or other relevant reasons, or if with respect to the kind, quantity or quality or nature of the goods, the purpose of import and way of acquisition of the goods abroad the payment of the duty would lead to hardness.

Part V

CUSTOMS PROCEEDINGS

Customs application

Section 58

/1/ The customs application contains data necessary for the execution of customs proceedings, namely

- a/ name and domicile /seat/ of the party to customs proceedings,
- b/ name and domicile /seat/ of the representative of the party to customs proceedings in cases when the party to customs proceedings is represented,
- c/ name and domicile /seat/ of consignor and consignee,
- d/ amount, kind, marks and numbers of cargo pieces,
- e/ amount, kind and numbers of conveyances
- f/ quantities of goods according to the criteria determined in the tariff as well as according to the criteria indicated in the import or export licences,
- g/ designation of kind and nature of goods in accordance with their denomination in the tariff, if under the denomination in the tariff more kinds of goods are included, the denomination usually applied in the trade shall be indicated
- h/ price of the goods
- ch/ country of origin of imported goods
- i/ country of destination in respect of exported goods
- j/ purpose of import or export
- k/ in case of dutiable status the term asked for reexportation or reimportation

1/ exemption from customs duty, if asked for,  
m/ list of attached documents.

2/ The customs application for commercial goods must besides the data mentioned in paragraph 1 contain the following data:

a/ number of business transaction

b/ manner of payment and currency

c/ indication of the trading country

d/ description of kind and nature of packing as specified in the tariff and if not contained therein the denomination customary in trade.

3/ The customs office may require that the written customs application be presented on prescribed form and may accept customs applications for elaboration and transfer of data on carriers of information. The customs office may accept customs applications already before the presentation of goods for customs proceedings.

Translation  
FEDERAL MINISTRY OF FOREIGN TRADE  
Central Customs Administration

F. No. 4714/10-2099/86

Prague 18 August 1986

Re: Customs Valuation Instruction

Instruction No. 1/1986  
Group 2

Instruction  
on Customs Valuation

Sec. 1  
General Principles

(1) The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (hereinafter referred to as "the Agreement") including Annexes and Protocol thereto, to which Czechoslovakia adhered in 1984, has been published in the Decree of the Federal Ministry of Foreign Trade No. 120/1984 Coll. of August 20, 1984.

(2) The principles governing the customs valuation and the appeals from decisions carrying out such customs valuation are set forth in the Customs Act No. 44/1974 Coll. as amended by the Act. No. 117 of 1983, Coll. and the Decree of the Ministry of Foreign Trade No. 51/1986 Coll., implementing the said Customs Act, No. 44/1977, Coll.

(3) The purpose of the present instruction is to ensure uniform construction of the customs value and its technical application by customs authorities (offices) while determining same for customs purposes, more particularly levy of the customs duties on commercial goods (hereinafter referred to as "the goods") and of customs statistics.



Sec. 2

Customs Value

(4) The customs value of goods shall be their transaction value, i.e. the price actually paid or payable for goods sold for exportation into the country of importation to which costs, borne by the buyer and not included into the purchase price hereunder shall be added, provided the conditions set forth in Sec. 3 hereof are observed.

( 5) In determining the customs value under the provisions of Sec. 4 hereof, the following items shall be added, to wit:

(a) the following costs, expenses, etc. incurred in connexion with the sale:

(i) commissions and brokerage, except buying commissions;

(ii) the costs of containers with the exception of those treated separately as a special assessable item;

(iii) the cost of packing covering both the labour and the material;

(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 or at reduced price for use in connexion with the production or sale for export of the goods being valued, to the extent that such value has not been included in the price actually paid or payable;

(i) materials, component parts, and similar items incorporated into 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, plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;

(c) royalties and license 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, except fees payable in consideration of the right to re-manufacture the goods in the country of importation;

(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) the following costs, expenses, etc. related to the delivery (carriage) of the goods to the customs border, to wit:

(i) the cost of transport and related expenses;

(ii) the cost of loading, unloading and handling associated with the transport of the goods;

(iii) the cost of insurance.

(.6) Cost, expences etc. related to several kinds of goods transported together, but classified separately, shall be determined on a pro rata basis taking into consideration the values of different kinds of the goods. The same principle shall apply in case of the value of containers wherein the different goods, separately classified, are transported, unless these containers are assessed for duty individually as separate items for customs purposes.

### Sec. 3

#### Transaction Value

(7) The transaction value under Sec. 1 hereof shall be accepted as basis for determination of the customs value, 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;

(ii) limit the geographical area in which the goods may be resold;

- (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 the provisions of Sec. 2 hereof;
  - (d) that the buyer and the seller are not related or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes under paragraphs (9) and (10) hereof.
- ( 8) Where the buyer and the seller are related persons, the transaction value shall be acceptable, unless their relationship affects the purchase price.
- ( 9) In a sale between related persons, the transaction value shall be also accepted whenever the person assessable for duty demonstrates that such value of the goods closely approximates the following methods of determination thereof occurring at or about the same time, taking into consideration price fluctuations customary in the trade with the valued goods, to wit:
- (a) to the transaction value of goods imported, identical or similar as the goods sold to a buyer, unrelated to the seller;
  - (b) to the transaction value of identical or similar goods determined under Sec. 6 hereof;
  - (c) to the transaction value of identical or similar goods determined under Sec. 7 hereof.

(10) When applying the rules of paragraph ( 9 ) hereof, the difference in the commercial level, quantity, and the costs and services to be added under Sec. 2 hereof as well as the costs borne by the buyer in cases where the buyer and the seller are unrelated persons, shall be duly taken into consideration.

Sec. 4  
Identical Goods

(11) When applying the rule in paragraph (12) hereof, the transaction value of identical goods, sold at the same commercial level and substantially in the same quantities as the goods being valued, sold for exportation into the same country of importation and exported at or about the same time as the goods being valued, shall be used.

(12) The transaction value of identical goods shall be used as the customs value, provided said transaction value - adjusted reasonably under the following paragraph 13 and Sec. 2 , paragraph ( 5 ) (e) hereof - has already been accepted as customs value under Sec. 5 hereof.

(13) Where there are no sales at the same commercial level and in substantially the same quantities, the transaction value of identical goods at different commercial levels and/ or in different quantities shall be used, adjusted in view of the differences resulting from the commercial level and/or the quantity, provided such adjustments can be made on basis of reasonable and accurate evidence.

(14) Where more than one transaction values are found while applying the principles of the present Section, the lowest transaction value shall be used.

Sec. 5  
Similar Goods

(15) The customs value shall be the transaction value of similar goods, adjusted under Sec. 4 paragraphs (12) through (14), if sold at the same commercial level and in substantially the same quantities as the goods to be valued, sold for exportation to the country of importation and imported at or about the same time as the goods to be valued.

Sec. 6  
Unit Price

(16) If the imported goods or identical or similar goods are sold in the country of importation 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 goods are sold so in the greatest aggregate quantity, at or about the time of 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:

- (a) the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connexion with sales in such country of imported goods, of the same class or kind;
- (b) the usual costs of transport and insurance and associated costs, incurred within the country of importation;
- (c) the costs of loading, transloading and discharging taking place in the country of importation;
- (d) customs duties and other taxes payable in the country of importation by reason of the importation of the goods.

(17) The provisions of paragraph (16) shall be applied by the customs authority where the goods therein referred to are resold in the condition as imported into the country of importation at the earliest date after the importation of the goods, but before the expiration of ninety (90) days.

(18) Where the imported goods (neither identical nor similar) are sold in the country of importation in the condition as imported, then, where 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 country of importation, 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 in paragraph 16 (a) through (d) of the present Section.

#### Sec. 7

#### Determination of Customs Value

(19) If the customs value cannot be determined under the provisions of Sec. 2 hereof, it shall be determined under Secs. 3 to 6 hereof one after the other. Upon request of the party being assessed, the order of applicable principles in Secs. 6 and 7 hereof may be reversed paragraph (21).

(20) If the customs value can be determined neither under Sec. 2, nor under the rules set forth in Secs. 3 to 6, it shall be determined under Sec. 8 hereof.

(21) The customs value of imported goods shall be based on the 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 the producers in the country of exportation for export to the country of importation;

(c) the cost or value of all other expenses defined in Section 2, paragraph 5.

(22) Information supplied by the producer of the goods for the purposes of determining the computed customs value may be verified by Czechoslovak customs authorities in other countries with the agreement of the producer, provided the government of the third country is given a sufficient notice and raises no objections to the investigation.

#### Sec. 8

#### Other Determination of Value

(23) The customs value, determined in accordance with the methods of valuation set forth in Secs. 2, 4, 5, 6 and 7 hereof shall be used by the respective customs authorities to the largest possible scope.

(24) If the customs value cannot be determined in accordance with the principles set forth in Secs. 2, 4, 5, 6 or 7 hereof, then the customs value shall be determined by the respective customs authority on hand of data available in the country of information.

(25) No customs value shall be determined under the provisions of this Section on the basis of:

(a) the selling price of the goods for exportation to a country other than the country of importation;

(b) the selling price of the goods on domestic markets in the country of exportation;

(c) the selling price of the goods produced in the country of importation;

(d) the minimum customs values;

(e) arbitrary or fictitious values;

(f) the cost of production other than computed values, which have been determined for identical or similar goods in accordance with Sec. 7 hereof;

(g) a system which provides for the acceptance for customs purposes of the higher of two alternative values.

Sec. 9  
Conversion of Currency

(26) Where the price or value serving as basis for determination of the customs value is expressed in a foreign currency, it shall be converted into Czechoslovak crowns (CSK) at the rate of the State Bank of Czechoslovakia prevailing at the time when application for determination of the customs value is made.

Sec. 10  
Declaration of Customs Value

(27) Data appearing in the customs application filed with the respective customs authority under Sec. 66 of the Customs Act, No. 44/1977 Coll. shall serve as basis for the determination of the customs value. Such data shall be indicated in an allowed way in the customs application for every respective item of goods stated in the Customs Tariff.

(28) Where it is allowed under the respective customs rules to make customs applications orally, it will be possible to indicate the data necessary for determination of the customs value orally, too.

(29) In cases where the data declared are insufficient or where they may give rise to doubts as to their correctness, the customs authorities may request the party to the customs proceeding or its representative to file other documents, on hand of which they could verify the accuracy of the customs value indicated as well as the method of its determination. More particularly, they may request the production of invoices, pro-forma invoices, declarations etc. For purposes of verification of correctness of the indicated customs value, the customs authority has equally the right to check accounting and banking documents of the parties to the customs proceedings, provided these are related to the customs value.



(30) If the particulars of the customs value, appearing in the customs application, are supplied by a representative of the party to the customs proceedings, the latter shall adduce further documents in support, on hand of which the correctness of the customs value stated may be verified, such as, e.g. the instruction of the party to the customs proceedings to start same.

(31) All information of confidential character, supplied to the respective customs authority for the purposes of determination of customs value, shall be considered as strictly confidential and handled in accordance with Sec. 15 of the Customs Act, 1974, No. 44, Coll.

(32) Where no customs value appears in the customs application prior to the commencement of the customs proceedings or where the Central Customs Administration gives no leave to indicate such data in another form under Sec. 56 paragraph (3) of the Decree 51 of 1986, Coll. or, possibly, where during the determination of said customs value it appears that final decision on such value should be deferred, the goods cannot be released into free circulation. Provided that, the customs authority may authorize the party to the customs proceedings to handle the goods in accordance with Sec. 70 of the Customs Act, 1974, No. 44, Coll. prior to the decision on release into free circulation; if such authorization is given the customs authority shall fix at the same time the term for, and the mode of, indication of such customs value.

(33) The party to the customs proceedings or its representative shall have the right to receive an answer from the customs authority to their written request as to the method of, and the reasons for, determination of the customs value. If specifically requested so, the answers shall be given in writing.

(34) An appeal from the decision of the customs authority on determination of the customs value shall be available to the party to the customs proceedings. Decision on the appeal shall be taken by the Customs Directorate. A further appeal from the decision of the Customs Directorate may be lodged with ordinary courts of law under Sec. 112 of the Customs Act, 1974, No. 44 Coll., as amended in the Act No. 117 of 1983, Coll.

Sec. 11

Definition of Terms

(35) "Customs value of the goods imported" shall denote the value of the goods determined for the purposes of levying of ad valorem duties of customs on imported goods.

(36) "Country of importation" means country or customs territory of importation.

(37) "Produced" includes grown, manufactured or mined.

(38) "Identical goods" means goods same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance need not be taken into consideration.

(39) "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 function 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.

(40) The terms "identical goods" and "similar goods" as the case may be goods do not include which incorporate or reflect engineering, development, artwork, design work and plans and sketches for which no adjustment has been made under Sec. 2 paragraph ( 5) (b) hereof, because such elements were undertaken in the country of importation.

(41). The goods shall not be regarded as "identical" or "similar" unless they are produced in the same country as the goods being valued.

(42) Goods produced by a different person shall be taken into account only when there are no identical goods or similar goods, as the case may be, produced by the same person as goods being valued.

(43) "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 indentical or similar goods.

Unless produced in the same country as the goods being valued, the goods cannot be regarded as indentical or similar.

(44) "Related persons" shall mean juridical bodies and physical persons only if

- (a) one of them is on board of managers or directors of the other one and vice versa;
- (b) they are legally recognized partners;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds five (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.

(45) Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionnaire, however described, of the other, shall be deemed to be related, provided they meet the criteria set forth in paragraph (14) hereof.

Sec. 12

Final Provisions

- (46) The instruction No. 7 of 1983, group 2, is abolished.
- (47) The present instruction shall become effective as from September 1, 1986.

Director General  
Central Customs Administration  
(sgd) Jiří B r o ž, dr. jur., CSc.

Copy certified correct.