

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Customs Valuation

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## TREATMENT OF INTEREST CHARGES IN THE CUSTOMS VALUE OF IMPORTED GOODS

Proposal by the European Economic Community

### Revision

The following communication, dated 9 November 1983, has been received from the delegation of the European Economic Community.

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At the May 1982 meeting of the Committee on Customs Valuation an EEC proposal (VAL/W/8) to amend the Agreement with respect to the treatment of interest charges was discussed by the Parties. Subsequent discussions showed that most Parties believed that it would be more appropriate to deal with the matter by way of an agreed Committee Decision interpreting the Agreement. A draft Committee Decision (doc. VAL/W/13) was discussed at the November 1982 meeting of the Committee and a revised draft decision (doc VAL/W/13/Rev.1) was discussed at the meetings of March and May 1983. That text has been further revised in the light of those discussions. The European Economic Community proposes the following revised draft decision for consideration by the Committee.

Decision on the Treatment of Interest Charges in the  
Customs Value of Imported Goods

Introduction

1. In examining the ways in which the Parties to the Agreement had implemented it in practice, the Committee noted a lack of uniformity in the interpretation of the Agreement in regard to the treatment of interest charges. This has been confirmed in a study (VAL/W/10) of national practices undertaken for this purpose by the Technical Committee on Customs Valuation. The study showed that some Parties considered interest charges which were separately distinguished from the price actually paid or payable for the goods themselves not be part of the price paid or payable for the goods. Others considered such charges to be part of the price actually paid or payable for the goods.

2. The Committee recognized in the circumstances that the Agreement was open to differing interpretations. This was not consistent with the uniformity of application aimed at by the Agreement. It decided, therefore, to adopt a Decision on the treatment of such charges with a view to achieving uniformity of treatment.

Background

3. The Agreement establishes the price actually paid or payable for the imported goods as the main basis for the valuation of goods for customs purposes. The Agreement also recognizes the need to clarify what constitutes the price actually paid or payable. Therefore, the Note to Article 1 of the Agreement defines what is meant by "the price actually paid or payable" and provides that certain specified elements should not be included provided that they are distinguished from the price actually paid or payable for the imported goods. Further, Article 8 provides that, in determining customs value, specified elements should be added to the price actually paid or payable. Interest charges are not, however, among these elements; and while the question of interest charges arises primarily in the context of Article 1 of the Agreement, the conclusions about such charges in relation to that Article are also relevant where the value is determined under one of the secondary methods.

4. Although the question of interest charges was raised during the negotiations, specific provisions on the treatment of interest charges were not included in the Agreement. The view was taken that if the price charged by the seller to the buyer included an element of interest, which was not distinguished from the price of the goods, it would be included in the customs value but otherwise it would normally be excluded.

5. It was clear from the study of the Technical Committee (VAL/W/10) that the absence of precise guidance on the treatment of interest charges has led to a lack of uniformity in the application of the Agreement. The Parties therefore concurred that the situation should be rectified by the adoption of the following Decision.

Decision

The Parties to the Agreement on Implementation of Article VII of the GATT agree as follows:

Charges for interest under a financing arrangement relating to the purchase of imported goods shall not be regarded as part of the customs value provided that:

- (a) the charges are distinguished from the price actually paid or payable for the goods;
- (b) the financing arrangement was made in writing;
- (c) where required, the buyer can demonstrate that
  - such goods are actually sold at the price declared as the price actually paid or payable, and
  - the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when the finance was provided.

This Decision shall apply regardless of whether the finance is provided by the seller, a bank or another natural or legal person. It shall also apply, if appropriate, where goods are valued under a method other than the transaction value.

This Decision shall apply from .....