

**GENERAL AGREEMENT ON  
TARIFFS AND TRADE**

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Committee on Customs Valuation

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Supplement

LEGISLATION OF THE UNITED STATES

Notice on the Treatment of Interest Charges in the Customs Value of Imported Merchandise.

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\* English only

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(From pages 27886-27887)

Customs Service

TREATMENT OF INTEREST CHARGES IN THE CUSTOMS VALUE OF IMPORTED MERCHANDISE

AGENCY: United States Customs Service, Department of the Treasury

ACTION: Notice of Customs position

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**SUMMARY:** This document serves as notice to the general public that Customs is changing its position regarding the treatment of interest charges in the customs value of imported goods. A recent decision by the Committee on Customs Valuation of the General Agreement on Tariffs and Trade (GATT) indicates that interest charges included in the price actually paid or payable for imported merchandise are not to be considered as part of the customs value where: (1) the interest charges are identified separately from the price of the goods; (2) the financing arrangement was in writing; and (3) where required, the buyer can demonstrate that the goods undergoing appraisal are actually sold at the price declared and the claimed rate of interest does not exceed the level for such transaction prevailing in the country where and when the financing was provided. In view of this decision, customs has reconsidered its prior administrative decisions regarding the dutiability of interest payments, and has determined that under the Trade Agreements Act of 1979 (Pub. L. 96-39) most interest payments are not part of the dutiable value of merchandise provided certain criteria are met.

**EFFECTIVE DATE:** This decision is retroactive to 25 April 1985.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

Background

On 26 April 1984, the Committee on Customs Valuation of the General Agreement on Tariffs and Trade (GATT) adopted a decision regarding the

treatment of interest charges in the customs value of imported goods (reprinted below at Annex A). The decision indicates that interest charges included in the price actually paid or payable for imported merchandise are not to be considered as part of the customs value interest where:

- A. The interest charges are identified separately from the price actually paid or payable for the goods;
- B. the financing arrangement in question was made in writing;
- C. where required by Customs, the buyer can demonstrate that:
  - the goods undergoing appraisalment 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 transaction prevailing in the country where and when the financing was provided.

Prior to the adoption of the above decision, in various administrative determinations the United States Customs Service had taken the position that only those interest payments which were part of an "overall financing arrangement" or those which were paid by a buyer to a third party unrelated to a seller and which did not accrue to the seller's benefit, were not dutiable. All other interest payments associated with imported goods, including those paid to a seller and relating to the purchase of specific goods, were considered dutiable.

In view of the GATT decision, the Customs Service decided to reconsider its position regarding the dutiability of interest payments. Our re-evaluation resulted in a determination that whether or not interest payments are included in the price actually paid or payable for merchandise, they should be considered non-dutiable provided that criteria based on the GATT decision were met. Accordingly, Customs personnel were informed on 25 April 1985, through the issuance of the memorandum reprinted below, that our position regarding the dutiability of interest payments had been changed.

On 26 April 1984, the Committee on Customs Valuation of the General Agreement on Tariffs and Trade (GATT) adopted a decision regarding the treatment of interest charges in the customs value of imported goods. This Committee administers the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the GATT Valuation Agreement), to which the United States is a signatory, and which was enacted into domestic legislation in the Trade Agreements Act of 1979 (Pub. L. 96-39 (the TAA)). In view of the above decision, Customs Service Headquarters has reassessed its position previously taken in TAA rulings 14, 31 and 43 with respect to the dutiability of interest charges. In brief, our previous rulings held that only those interest payments which were part of an "overall financing arrangement" (TAA 43), or those which were paid by a buyer to a third party

unrelated to a seller and which did not accrue to the seller's benefit (TAA 31) were not dutiable. All other interest payments associated with imported goods, including those paid to a seller and relating to the purchase of specific goods (TAA 14 and 31) were considered dutiable.

Our experience under the above rulings indicated that it was impossible in many instances to distinguish interest payments relating to the purchase of specific goods from interest payments made as part of an overall financing arrangement. More importantly however, we have re-evaluated our prior determinations interpreting the TAA regarding the dutiability of interest payments, and have concluded that interest payments, whether or not included in the price actually paid or payable for merchandise, should not be considered part of dutiable value provided the following criteria are satisfied:

- A. The interest charges are identified separately from the price actually paid or payable for the goods;
- B. the financing arrangement in question was made in writing;
- C. where required by Customs, the buyer can demonstrate that:
  - the goods undergoing appraisalment 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 transaction prevailing in the country where, and at the time, when the financing was provided.

Inquiries regarding the criteria in "C" shall be considered satisfied, inter alia, if the claimed charges for interest and principal are consistent with those usually reflected in sales of identical or similar merchandise. If the claimed amount of interest is inconsistent with that usually reflected in sales of identical or similar merchandise, or is inconsistent when compared to the level for such transaction prevailing in the country where, and at a time when the financing was provided, only that amount which is consistent shall be allowed as non-dutiable, the excess being disallowed.

This decision also applies to entries of merchandise appraised under a method other than transaction value. Additionally, this decision shall apply to all entries under Customs jurisdiction on which liquidation has not become final, including currently unliquidated entries and protested entries which have not been finally disposed of.

Pursuant to the above memorandum issued to its field personnel on 25 April 1985, Customs will now consider interest payments satisfying the criteria in the memorandum not to be part of the customs value of imported merchandise.

ANNEX A

GENERAL AGREEMENT ON TARIFFS AND TRADE:  
COMMITTEE ON CUSTOMS VALUATION: DECISION ON THE TREATMENT  
OF INTEREST CHARGES IN THE CUSTOMS VALUE OF IMPORTED GOODS

Adopted by the Committee on 26 April 1984

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

Charges for interest under a financing arrangement entered into by the buyer and 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 transaction value.

Each Party shall notify the Committee of the date from which it will apply the Decision.

Robert P. Schaffer  
Acting Commissioner of Customs

Approved 20 June 1985

John M. Walker, Jr.  
Assistant Secretary of the Treasury