

# GENERAL AGREEMENT ON

RESTRICTED

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# TARIFFS AND TRADE

Special Distribution

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Committee on Customs Valuation

Original: Spanish

## INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

### Legislation of Argentina

The following communication, dated 4 August 1987, has been received from the Permanent Delegation of Argentina.

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I have the pleasure to inform you that, by Decree No. 1,026 of 25 June 1987, implementing regulations have been adopted for National Law No. 23,311 of 17 April 1986, approving the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade and its Protocol, signed in Geneva on 12 April and 1 November 1979, respectively.

Decree No. 1.026 of 25 June 1987

HAVING REGARD to the Customs Code approved by Law No. 22,415 and the subsequent approval of Law No. 23,311 adopting the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT) and its Protocol, signed in Geneva (Switzerland) on 12 April and 1 November 1979, respectively, and

**WHEREAS**

It is necessary to provide for the implementation of those laws by virtue of the powers conferred by Article 1,184 of the Customs Code and to establish regulations in connection with the implementation of the new system of valuation of goods imported for consumption, in exercise of the powers conferred upon the National Executive Power by Article 86 (1) of the National Constitution,

Therefore,

**THE PRESIDENT OF THE ARGENTINE NATION**

**DECREES:**

**ARTICLE 1.** It shall be taken into consideration that by Article 1 of Law No. 23,311 the Protocol to the Agreement was approved and that in paragraph 1 of the latter the Parties agreed to the deletion of the provision of Article 1.2(b)(4) of the Agreement, and therefore the latter text shall be considered deleted.

**ARTICLE 2.** The relevant provision of Article 4 of the Agreement shall apply only when the National Customs Administration or authority of the customs service to whom the latter shall delegate such responsibility agrees to the request to reverse the order of application of Articles 5 and 6 of the Agreement.

**ARTICLE 3.** Article 5, paragraph 2, of the Agreement shall apply in conformity with the provisions of the Note to that paragraph regardless of whether or not the importer so requests.

**ARTICLE 4.** The system of the Agreement and the particular provision of Article 7:2(f) thereof imply the abolition of any official prices in force on 31 December 1987. As of 1 January 1988 tariff protection where appropriate, shall be exercised through minimum specific duties, as provided for under Article 662 of the Customs Code.

**ARTICLE 5.** With regard to Article 8:2 of the Agreement, the elements mentioned in the paragraph shall be included in whole.

For these purposes, "place of importation" into our country for goods carried by water shall be the first port at which the cargo of the means of transport is subjected to customs formalities, and for goods carried by land or air, the first customs office nearest the border where the goods to be valued can physically be unloaded. This treatment shall apply even when the goods continue their journey for clearance by another customs house.

When transport is free or at the cost of the purchaser, the customs value shall include transport and insurance costs up to the place of introduction, calculated in accordance with the rates and premiums normally applicable for the means of transport used.

**ARTICLE 6.** The customs value of imported goods does not include transport costs following importation into the national customs territory, provided such costs are distinguished from the price actually paid or payable for the imported goods. Consequently, if the imported goods are invoiced at a free-at-destination single price, the cost of transport within the general or special customs territory shall not be deducted from the price. However, such deduction shall be authorized if proof is submitted to the customs service that the free-at-frontier price is lower than the free-at-destination single price.

**ARTICLE 7.** By virtue of the Decision taken at the ninth meeting of the Committee on Customs Valuation, held on 26 April 1984, for the application of the Agreement it shall be taken into consideration that:

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:
  1. such goods are actually sold at the price declared as the price actually paid or payable, and
  2. 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.

The above 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.

**ARTICLE 8.** With regard to Article 9 of the Agreement, Articles 639 and 651 of the Customs Code shall apply. The customs value shall be established in legal tender of the Argentine Republic, and the following rules shall be followed for the conversion of values established in foreign currency:

1. The selling rate of exchange, published by the National Customs Administration or by whomever such responsibility has been delegated to, shall be the daily rate at the close of exchange operations and shall have effect on the second working day following publication.

2. The National Customs Administration shall fix the exchange rate in accordance with the quotations provided by the Banco de la Nación Argentina, or in the case of currencies not quoted by the latter, the quotations provided by the Banco Central de la Republica Argentina. The exchange rate shall be that applicable for commercial transactions.

**ARTICLE 9.** Persons shall be deemed to be related within the meaning of Article 15:4(h) of the Agreement when members of the same family are linked by any of the following relationships:

- (a) spouses;
- (b) first-degree direct ascendants and descendants;
- (c) full or consanguineous brothers and sisters;
- (d) second-degree direct ascendants and descendants;
- (e) uncle or aunt and nephew or niece;
- (f) father-in-law or mother-in-law and son-in-law or daughter-in-law;
- (g) brothers-in-law and sisters-in-law.

**ARTICLE 10.** The value must be declared in accordance with the formalities provided for in Article 234 of the Customs Code or as may be established under Article 235 of the Code. Without prejudice to the foregoing, the National Customs Administration may, in exercise of its powers under Article 23 of the Code, simplify these formalities for example, for merchandise of little value, in the case of non-commercial imports, where the nature of the customs treatment applied to the goods to be cleared does not require presentation of the elements concerned or in any other case in which import restriction or income controls are not affected and the objective is to remove mere obstructive formalities, the implementation of which would unnecessarily draw out the procedure.

**ARTICLE 11.** All information which is by nature confidential or provided on a confidential basis for the purposes of customs valuation shall be treated as strictly confidential by the customs authorities who shall not disclose it without the specific permission of the person or government providing it, except to the extent that it may be required to be disclosed in the context of judicial proceedings.

**ARTICLE 12.** In the case of clearance of goods under guarantee as provided for under Article 13 of the Agreement, the relevant tables equivalence of the guarantee régime provided for in Articles 453 et seq of the Customs Code and related provisions shall be applied.

**ARTICLE 13.** In accordance with Article 11:3 of the Agreement, in connection with the determination of customs value, the appellant shall not only be given notice of the decision on appeal and the reasons for such

decision, but also be informed of his rights of any further appeal. To this end, the customs administrators or whoever performs their functions and, where appropriate, the magistrates of the Fiscal Court of the Nation shall decide in such cases in order to fulfil this obligation.

**ARTICLE 14.** In the case of articles constituting the luggage or personal effects of crew members, the National Customs Administration shall continue to apply the provisions of Articles 500 and 526, respectively, of the Customs Code.

**ARTICLE 15.** The Ministry of Finance shall communicate in good time to the Ministry of Foreign Affairs and Worship the list of persons proposed to be included in the informal indicative list of government officials knowledgeable in the area of customs valuation for the purposes of Annex III, paragraph 2, of the Agreement.

**ARTICLE 16.** The Ministry of Finance and the National Customs Administration shall propose the competent officials to participate in the Technical and Customs Valuation Committees set up by the Agreement.

**ARTICLE 17.** Independently of the reservations formulated in Articles 2 and 3 of Law No. 23,311, by virtue of the authorization granted by the Parties to the Agreement under paragraph 2 of the Protocol, both the Agreement and its Protocol shall apply in our country as from 1 January 1988. Consequently, the application of the valuation method described in Articles 1, 2(b)(iii) and 6 shall be delayed until 1 January 1991.

**ARTICLE 18.** For the purposes of Law No. 23,311 and Article 1,184 of the Customs Code, it shall be considered that the provisions of the latter Code concerning the determination of the customs value of goods imported for consumption shall be replaced by the corresponding provisions of Law No. 23,311 as from 1 January 1988, at which time Articles 641 to 650 and 652 to 659 of the above-mentioned Code and any other provision that may conflict with Law No. 23,311 shall be considered to be automatically repealed.

**ARTICLE 19.** This Decree shall enter into force on the day following its publication in the Official Journal and shall have effect as from 1 January 1988.

**ARTICLE 20.** This Decree shall be communicated, published, transmitted to the National Registry Office and filed.