

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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Committee on Customs Valuation

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Addendum

Legislation of Poland

The following communication has been received from the Permanent Mission of Poland.

Pursuant to Article 25 of the Agreement on Implementation of Article VII of the GATT I wish to submit the complete text of Chapter 3 of Customs Law of December 28 1989, which stipulates the provisions on customs valuation in Poland.

* English only/anglais seulement/inglés solamente

CUSTOMS LAW
Act of 28th December 1989
(Dz. U. 1989, No 75, item 445)

Chapter 3

Customs Value of Commodities

Article 25

1. Customs value is the price paid or the price to be paid for commodity declared for customs clearance (transaction value).
2. The following costs not included in the transaction value and actually borne by the buyer shall be added to such value:
 - 1) commissions paid in connection with the sales;
 - 2) packing;
 - 3) containers, where in customs procedure they shall be treated as part of commodities;
 - 4) licence dues and fees, which the buyer shall have had to pay as condition of sales;
 - 5) receipts or other proceeds from re-sale, utilization or other dispositions with relation commodities which would directly or indirectly fall on the seller;
 - 6) connected with delivery, by the buyer, free of charge or at a price lower than the market price, of objects or services utilized in connection with production or sales of commodities.
3. Objects or services specified under section 2 subsection 6 are:
 - 1) materials, components, parts and similar objects constituting part of or accessories of commodities;
 - 2) tools, castings, forms and similar objects utilized at production of commodities;
 - 3) materials, raw-materials, dye-stuffs and other objects used in the process of production;
 - 4) engineering, research, developmental, designing, artistic works, drawings and designs necessary for the production of commodities.

4. Costs of transportation of commodities, including unloading, port fees and other fees connected with transport, as well as costs of insurance of the commodities shall be deducted from the transaction value.
5. Where transaction value cannot be established, the customs value of commodities shall be assessed in the way specified under Article 27-30 below.

Article 26

1. Transaction value shall not be adopted as customs value where:
 - 1) restrictions of the power of disposal or using the commodities shall have been imposed upon the buyer, unless such restrictions shall be required by the law, shall relate to determination of the area on which the commodities may be re-sold or shall not cause any significant decrease in their value;
 - 2) sales or price of commodities shall have been made dependent on the condition or fulfilment of a service whose value cannot be established;
 - 3) receipts or other profits specified under Article 25 section 2 subsection 5 above cannot be distinguished;
 - 4) there are relations between the buyer and the seller unless, after the circumstances of the sales shall have been examined, it shall appear that the relation between the buyer and the seller shall have had no influence upon fixing the price or that the transaction value shall not considerably differ from the value assessed with accordance to Article 25 above.
2. The parties shall be considered related where:
 - 1) one party shall be a manager or a member of a managing or supervisory body over the other party;
 - 2) manager or a member of a managing or supervisory body over one party shall be, at the same time, manager or a member of a managing or supervisory body over the other party;
 - 3) they shall be partners;
 - 4) one of the parties shall be the other party's employer;
 - 5) one of the parties shall possess or have at disposal, directly or indirectly, a vote or share in initial capital, equal to at least 5% of all the votes or 5% of the initial capital of the other party;

- 6) both parties shall be under direct or indirect supervision of a third party;
- 7) both parties shall jointly supervise, directly or indirectly, a third party;
- 8) shall be related by kinship or affinity to the second degree.

Article 27

1. In cases specified under Article 26 section 1 above the customs value shall be assessed as transaction value of identical commodities introduced onto the Polish customs area, sold at the same or similar time as the commodities whose customs value shall be assessed.
2. Insignificant differences in outer appearance shall not constitute obstacles for acknowledgement the commodities as identical, where apart from such differences they shall be identical in every respect including physical features, quality and general appearance.
3. While assessing transaction value of identical commodities the differences in value resulting from the circumstances of the sales, including the level of turnover and the quantity of the commodities under sale, shall be taken into account.
4. Where, on the grounds of this article, more than one transaction value of identical commodities shall be assessed, the lowest value shall be acknowledged to be the transaction value.

Article 28

1. Where in cases specified under Article 26 section 1 above the transaction value of identical commodities cannot be assessed, the transaction value of similar commodities introduced onto the Polish customs area, sold at the same or similar time as the commodities for which the customs value is being assessed, shall be acknowledged to be the customs value.
2. Similar, in the meaning of section 1 above, shall be commodities which, not being identical in every respect, shall possess similar features and material components, enabling them to perform the same functions and to be commercially substitutional.
3. Provisions under Article 27 section 3 and 4 above shall be applied respectively.

Article 29

1. Where, in cases specified under Article 26 section 1 above, the transaction value of identical commodities cannot be assessed in the way specified under sections 2-4 below, and where that shall be impossible, with accordance to Article 30 below. The party effecting the turnover of commodities with abroad shall be entitled to demand assessment of customs value, where possible, under Article 30 below.

2. Where the commodities whose customs value is being assessed, or identical or similar commodities are sold on Polish customs area in an unchanged state, the customs value shall be assessed at the level of the price of sale effected between not related parties, in the same or similar time not exceeding 90 days since the date the commodities whose customs value is being assessed, shall have been carried inwards, decreased by:

- 1) commissions, profit and costs of sale borne by the party effecting the turnover of commodities with abroad, included in the sale price;
- 2) costs of transport and insurance borne at delivery of the commodities;
- 3) customs duties, taxes and other public encumbrances connected with carriage inwards or sale of the commodities.

3. Where commodities specified under section 2 above shall not be sold on Polish customs area in an unchanged state, at the request of the party effecting the turnover of commodities with abroad, the sale price specified under section 2 above shall be the sale price of the processed commodities decreased by the costs of processing.

4. Provision of Article 27 section 3 shall be applied respectively.

Article 30

1. Where, in cases specified under Article 26 section 1 above, the customs value cannot be assessed in the way specified under Articles 27-29, the value shall be assessed at the level of:

- 1) costs of production;
- 2) profit and general costs in the amount customarily included into the sale price of the commodities of the same kind and quality by manufactures in the country from which the commodities shall have been carried;
- 3) benefits resulting from delivery of objects or services specified under Article 25 section 2 subsection 6;

4) costs of packaging.

2. Where assessment of customs value of commodities in the way specified under section 1 above is impossible, customs value shall be assessed with utilization of results obtained by application of Articles 27-30.