

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Committee on Customs Valuation

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Addendum

Legislation of Finland

*English only. The original text in Finnish and in Swedish has been submitted to the secretariat (Non-Tariff Measures Division) where it can be consulted.

CUSTOMS VALUATION ACT

of December 19, 1980

In accordance with the decision of the Parliament it is enacted:

General provisions

Article 1

The customs value of imported goods is determined as prescribed in this Act.

With regard to the customs value of exported goods is prescribed separately.

Article 2

For the purposes of this Act

1) "transaction value" means the price actually paid or payable for the goods when sold for export to Finland adjusted in accordance with the provisions of this Act;

2) "identical goods" means goods produced in the same country as the goods being valued and which are the same in all respects, including physical characteristics, quality and reputation; minor differences in appearance would not preclude goods from being regarded as identical;

3) "similar goods" means goods produced in the same country as the goods being valued and which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable; the quality of the goods, their reputation and the existence of a trademark are to be considered in determining whether goods are similar;

4) "deductive value" means a value deduced from the price at which the imported goods or identical or similar imported goods are sold in Finland; and

5) "computed value" means a value which is based on the cost of production of the imported goods.

Article 3

The customs value of the imported goods shall be the transaction value, unless otherwise prescribed below.

Where the transaction value of the imported goods cannot be determined as the customs value, the transaction value of identical imported goods shall be the customs value.

Where the customs value cannot be determined on the basis of the transaction value of identical goods, the transaction value of similar imported goods shall be used.

Article 4

Where the customs value cannot be determined under the provisions of Article 3, the customs value shall be the deductive value of the goods.

Where the customs value is not determined on the basis of a transaction value or a deductive value, it shall be based on the computed value.

At a written request by the importer before the completion of customs clearance, the order of application of the computed value and the deductive value shall be reversed in the determination of the customs value.

Article 5

Where the customs value cannot be determined according to the valuation methods mentioned above, the customs value shall be determined in the way prescribed in detail by the Board of

Customs by application of methods, which to the greatest possible extent are based on the above-mentioned valuation methods and which are based on data available in Finland.

Determination of customs value on
the basis of transaction value

Article 6

The following costs shall be included in the transaction value, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:

- 1) commissions and brokerage, except buying commissions;
- 2) the cost of containers which are not treated as independent merchandise; and
- 3) the cost of packing.

Article 7

The transaction value shall include 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 for use in connexion with the production and sale of the imported goods:

- 1) materials, components, parts and similar items incorporated in the imported goods;
- 2) tools, dies, moulds and similar items used in the production of the imported goods;
- 3) materials consumed in the production of the imported goods; and
- 4) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Finland and necessary for the production of the imported goods.

The transaction value shall also include royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the

goods. However, the charges for the right to reproduce in Finland shall not be included in the transaction value.

Article 8

The transaction value shall include 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.

Article 9

The customs value determined on the basis of the transaction value shall include the cost of loading, handling and transport of the imported goods to the place of importation, such unloading charges which customarily are included in the freight and the cost of insurance.

For the purposes of this Act the term "place of importation" means in the case of transport by ship or aircraft the place of unloading and in the case of transport by other means the place, where the first frontier customs office is situated.

Article 10

The customs value determined on the basis of the transaction value shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods:

- 1) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;
- 2) the cost of transport after importation; and
- 3) duties and taxes levied in Finland.

Where goods are carried by the same means of transport to a point beyond the place of importation, the customs value shall include the proportional part of the transport costs

equal to the ratio between the distance to the place of importation and the total transport distance. The importer must, however, produce evidence that the price of the goods, when delivered to the place of importation, would be an equal amount lower.

Article 11

When the goods are in whole or partly produced on the basis of Finnish planning or similar work performed in the customs territory, the customs value may be reduced by the amount which corresponds to the proportional part of such work of the customs value of the goods, provided that this is included in the price actually paid or payable for the goods.

Article 12

Only the additions provided for in Articles 6 - 9 shall be made to the price actually paid or payable. The additions shall be based on objective and quantifiable data. Where sufficient reliable data on the additions is not available, the customs value cannot be determined on the basis of the transaction value of the imported goods.

Article 13

The customs value shall be the transaction value, provided:

- 1) that there are no restrictions as to the disposition or use of the goods by the buyer, other than restrictions which are imposed or required by Finnish law or by the public authorities in Finland or which limit the geographical area in which the goods may be resold, or which do not substantially affect the value of the goods;
- 2) 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; and
- 3) 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 adjustment can be made in accordance with the provisions of Article 8.

Article 14

Where the buyer and seller are related, the transaction value is accepted as customs value, provided that the relationship did not influence the price.

Article 15

If there are grounds for considering that the relationship influenced the price, the importer shall be given an opportunity to get the transaction value accepted as the customs value. The importer shall hereby demonstrate that the transaction value of the imported goods closely approximates to the transaction value of goods imported to Finland at or about the same time when identical or similar goods are sold for export to Finland to unrelated buyers or when using the deductive value or computed value of identical or similar goods.

In applying the tests mentioned in paragraph 1 above, due account shall be taken of differences in commercial levels, quantity levels and the elements enumerated in Articles 6 - 9. Due account shall also be taken of costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related.

Article 16

For the purposes of determining the customs value the buyer and the seller shall be deemed to be related only if:

- 1) they are officers or directors of one another's businesses;
- 2) they are legally recognized partners in business;
- 3) they are employer and employee;
- 4) any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;
- 5) one of them directly or indirectly controls the other;
- 6) both of them are directly or indirectly controlled by a third person;

- 7) together they directly or indirectly control a third person; or
- 8) they are members of the same family, including spouse, lineal descendants and ancestors, brothers and sisters and the spouses of these and adoptive parents and adoptive children.

Secondary methods for the determination
of customs value

Article 17

The determination of the transaction value of identical or similar goods as the customs value presupposes that the importation of goods has taken place at or about the time of the importation of the goods being valued.

Article 18

In determining the customs value on the basis of the transaction value of identical or similar goods, the transaction value of goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used. Where no such sale is found, the transaction value of identical or similar goods sold at a different commercial level or in different quantities shall be used. On the basis of demonstrated evidence this value shall be adjusted to take account of differences attributable to a different commercial level or to different quantities.

Where the costs and charges referred to in Article 9 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the comparable identical or similar goods arising from differences in distances and modes of transport.

If, in applying this Article, more than one transaction value of identical or similar goods is found, the lowest such value shall be used to determine the customs value.

Article 19

The determination of the deductive value as the customs value presupposes that the imported goods or identical or similar goods are sold in the condition as imported, subject to the provision of Article 20 paragraph 2. The cost of containers and of packing referred to in Article 6 is added to the sales price, and the costs related to the goods incurred after the importation are deducted from it.

Article 20

The deductive value shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to unrelated persons at or about the time of the importation of the goods being valued, at the latest before the expiration of ninety days after such importation. From this price shall be made the following deductions:

- 1) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connexion with sales in Finland of imported goods of the same class or kind;
- 2) the usual costs of transport and insurance and associated costs incurred within Finland; and
- 3) the customs duties and other taxes payable in Finland by reason of the importation or sale of the goods.

If neither the imported goods nor identical nor similar imported goods are sold in the condition as imported, then, if 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 unrelated persons. From this value shall be deducted the value added by such processing and the deductions provided for in paragraph 1.

Article 21

The computed value shall consist of the cost or value of materials and fabrication or other processing employed in producing the imported goods and an amount for usual profit and general expenses.

Article 22

The provisions of Article 9 on costs and charges included in the customs value shall apply also when the customs value is determined on the basis of secondary methods.

Specific provisions

Article 23

The customs value of imported goods shall not be based on a price that is fixed after the date the customs declaration has been submitted or should be submitted at the latest, unless otherwise prescribed in this Act.

Article 24

When the price of the goods is reduced due to the fact that the delivery does not correspond to the conditions of the contract, the customs value shall be reduced correspondingly.

Article 25

When the value of the goods has declined due to an accident that has taken place before the date of importation, the customs value shall be reduced correspondingly.

When the goods are lost or the value of the goods has declined due to an accident or a force majeure on or after the date of importation but before the date referred to in Article 3 paragraph 1 of the Act on Customs Taxation (575/78), the customs value shall be reduced correspondingly.

Article 26

Amounts of money expressed in a foreign currency are converted into Finnish currency by using the latest rate of exchange, as quoted by the Bank of Finland, of the month preceding the date prescribed in Article 3 of the Act on Customs Taxation. However, where the goods are not released from customs control before the date of customs clearance, the latest corresponding rate of exchange of the month preceding the date of the filing of the customs declaration shall be used.

Where there are significant changes in the rate of exchange or where a rate of exchange has not been quoted or where there otherwise are specific reasons, the Board of Customs shall, after having heard the Bank of Finland, determine the rate of exchange to be used.

Article 27

The total price of the goods and adjustments are notified or determined in the customs value calculation in full marks so that the exceeding pennies are not taken into account.

Article 28

Upon written request made to the district customs office, the importer shall have the right to an explanation in writing as to how the customs value of his imported goods was determined.

Article 29

The provisions of the Customs Act and of the Customs Taxation Act and the Decrees given by virtue of them, shall also apply to the notification, determination and adjustment of the customs value and even otherwise.

Article 30

Detailed provisions on the application of this Act will, if required, be issued by a Decree.

Article 31

This Act comes into force on January 1, 1981.

ACT ON THE AMENDMENT OF
ARTICLE 12 OF THE CUSTOMS ACT
of December 19, 1980

In accordance with the decision of the Parliament a new paragraph 3 is added to Article 12 of the Customs Act, as follows:

Article 12

Where, in the course of determining the customs value, a deferment of the final determination of such customs value becomes necessary, an importer paying in cash may withdraw his goods from customs, if he provides a guarantee accepted by the customs authorities.

This Act comes into force on January 1, 1981.