

GENERAL AGREEMENT ON TARIFFS AND TRADE

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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

The EEC proposal to amend the Agreement to clarify the treatment of interest charges (VAL/W/8 of 4 May 1982) and the United States proposal to amend that Agreement in respect of computer software (VAL/W/7 of 23 April 1982) were discussed at an informal meeting of the Parties to the Agreement on 8 July 1982. It was agreed that in both cases the alternative possibility of introducing any necessary changes by way of a decision of the Committee should be explored. The sponsors of the two amendments agreed to present revised proposals in order to facilitate an examination by the Parties of this alternative approach.

The following draft Decision is circulated by the European Economic Community for further discussion.

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 treatment of interest charges. 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 that the Agreement contained no clear guidance on the treatment of interest charges. It decided, therefore, to adopt a Decision on the treatment of such charges with a view to harmonizing the application of the Agreement.

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 was 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 can be added to the price actually paid or payable under certain conditions.

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. It was also considered that, in those cases where the cost of financing the purchase was significant, the cost of financing would be handled in a separate transaction either through a third party or directly between the buyer and the seller. In the former situation, the interest charges would not form part of the price paid by the buyer to the seller and, as a consequence, would not be part of the customs value. In the case of a transaction between the buyer and the seller the interest

charges could, if not separately distinguished, be included in the price paid by the buyer to the seller and, as a consequence, would form part of the customs value.

5. As can be seen from the discussion above, there is at present a lack of uniformity in the interpretation of the Agreement, particularly in cases where the seller quotes a price for deferred payment after customs clearance which is higher than the price payable on or before delivery of the goods. The Parties therefore agreed that the situation should be clarified 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 payable under a financing arrangement relating to the purchase of the imported goods, which are distinguished from the price actually paid or payable for those goods shall not be regarded as part of that price in determining the customs value. This Decision shall apply regardless of whether the finance is provided by the seller, a bank or other natural or legal person.

This Decision shall apply from