

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII  
OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

GENERAL INTRODUCTORY COMMENTARY

1. The primary basis for customs value under this Agreement is "transaction value" as defined in Article 1. Article 1 is to be read together with Article 8 which provides, inter alia, for adjustments to the price actually paid or payable in cases where

Recognizing that customs value should be based on simple and equitable criteria consistent with commercial practices and that valuation procedures should be of general application without

- (b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with the provisions of paragraph 1 whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time:



- (b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of paragraph 1(a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of 90 days after such importation.

2. If neither the imported goods nor identical or similar imported goods are sold in the country of importation 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 persons in the country of importation who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1(a).

## Article 6

1. The customs value of imported goods under the provisions of this Article shall be based on a computed value. Computed value shall consist of the sum of:

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation;
- (c) the cost or value of all other expenses necessary to reflect the valuation option chosen by the Member under paragraph 2 of Article 8 .

- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production other than commercial values which have been determined for identical or similar goods in accordance with the provisions of Article 6;
- (e) the price of the goods for export to a country other than the country of importation;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values.

3. If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of this Article and the method used to determine such value.

### Article 8

1. In determining the customs value under the provisions of Article 1, there shall be added to the price actually paid or payable for the imported goods:

- (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
  - (i) commissions and brokerage, except buying commissions;
  - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question;
  - (iii) the cost of packing whether for labour or materials;
- (b) 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 connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
  - (i) materials, components, parts and similar items incorporated in the imported goods;
  - (ii) tools, dies, moulds and similar items used in the production of the imported goods;
  - (iii) materials consumed in the production of the imported goods;
  - (iv) engineering, development artwork, design work, plans and sketches, undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;

---

1. <sup>1</sup> Reflects changes introduced as a result of the procès-verbal of rectification of 23 September 2014 (WT/Let/986)

- (c) 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 being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
- (d) the value of any part of the proceeds of a subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.

2. In framing its legislation, each Member shall provide for the inclusion in or the exclusion from the customs value, in whole or in part, of the following:

- (a) the cost of transport of the imported goods to the port or place of importation;

in the customs value, in whole or in part, of the following:

1. The legislation of each Member shall provide regard to a determination of customs value for the right of appeal, without penalty, by the importer or any other person liable for the payment of the duty.
2. An initial right of appeal without penalty may be to an authority within the customs administration or to an independent body, but the legislation of each Member shall provide for the right of appeal without penalty to a judicial authority.



- (b) "similar goods" means goods which, though not alike in all respects, have like characteristics and like component materials

Article 17

Nothing in this Agreement shall be construed as restricting or calling into question the rights



1. Each Member shall ensure, not later than the date of application of the provisions of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement.

2. Each Member shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

## Article 23

### Review

The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The Committee shall annually inform the Council for Trade in Goods of developments during the period covered by such reviews.

## Article 24

1. "Generally accepted accounting principles" refer to the recognized consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared. These standards may be broad in scope of general application as well as detailed practices and procedures.

2. For the purposes of this Agreement, the customs administration of each Member shall utilize information prepared in a manner consistent with generally accepted accounting principles in the country which is appropriate for the Article in question. For example, the determination of usual profit and general expenses under the provisions of Article 5 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of importation. On the other hand, the determination of usual profit and general expenses under the provisions of Article 6 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of production. As a further example, the determination of an element provided in paragraph 1(b)(ii) of Article 8 undertaken in the country of importation would be carried out utilizing information in a manner consistent with the generally accepted accounting principles of that country.

#### Note to Article 1

##### Price Actually Paid or Payable

1. The price actually paid or payable is the total amount made or to be made by the buyer to or for the benefit of the seller for the imported goods. The payment need not necessarily take the form of a transfer of money. Payment may be made by means of letters of credit or negotiable instruments. Payment may be made directly or indirectly. An example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owed by the seller.

2. Activities undertaken by the buyer on his own account, other than those for which an adjustment is provided in Article 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the customs value.

3. The customs 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:

- (a) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;

Among restrictions which would not render ~~it~~ practically paid or payable unacceptable are restrictions which do not substantially affect the ~~value~~ of the goods. An example of such restrictions would be the case where a seller requires a buyer of au

not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sales to buyers who are not related to the seller, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period (e.g. on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.

4. Paragraph 2(b) provides an opportunity for the importer to demonstrate that the transaction value closely approximates to a "test" value previously accepted by the customs administration and is therefore acceptable under the provisions of Article VII. Where a test under paragraph 2(b) is met, it is not necessary to examine the question of influence under paragraph 2(a). If the customs administration has already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in paragraph 2(a) has been met, there is no reason for it to require the

4. For the purposes of Article 2, the transaction value of identical imported goods means a customs value, adjusted as provided for in paragraphs 1(b) and 2, which has already been accepted under Article 1.

5. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustments, e.g. valid price lists containing prices relating to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical imported goods for which a transaction



resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customer value under the provisions of Article 3 is not appropriate.

#### Note to Article 5

1. The term "unit price at which ... goods are sold to the greatest aggregate quantity" means the price at which the greatest number of units is sold to persons who are not related to the persons from whom they buy such goods at the commercial level after importation at which such sales take place.

2. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	Unit price	Number of sales	Total quantity sold at each price
1-10 units	100	10 sales of 5 units 5 sales of 3 units	65
11-25 units	95	5 sales of 11 units	55
over 25 units	90	1 sale of 30 units 1 sale of 50 units	80

The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is 90.

3. As another example of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.

4. A third example would be the following situation where various quantities are sold at various prices.

(a) Sales

Sale quantity	Unit price
40 units	100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100



Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.

12. It is recognized that the method of valuation provided for in paragraph 2 of Article 5 would normally not be applicable when, as a result of further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined adequately without unreasonable difficulty. On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods in the country of importation that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

#### Note to Article 6

1. As a general rule, customs value is determined under this Agreement on the basis of information readily available in the country of importation. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside the country of importation. Furthermore, in most cases the producer of the goods will be outside the jurisdiction of the authorities of the country of importation. The use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the authorities of the country of importation the necessary costings and to provide facilities for any subsequent verification which may be necessary.

2. The "cost or value" referred to in paragraph 1 of Article 6 is to be determined on the basis of information relating to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial ac

provided that the producer has valid commercial reasons to justify them and the producer's pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in the country of importation and accept a lower profit to maintain competitiveness. Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation, the amount for profit and general expenses may be based upon relevant information that is supplied by or on behalf of the producer of the goods.

6. Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the authorities of the importing country shall inform the importer, if the latter so requests, of the source of such information, the data used and the calculations based upon such data, subject to the provisions of Article 10.

7. The "general expenses" referred to in paragraph 1(b) of Article 6 covers the direct and



3. The ease with which it may be possible to date the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods.

4. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design centre outside the country of importation in such a way as to show accurately the costs attributable to any product. In such cases, a direct adjustment may appropriately be made under the provisions of Article 8.

5. In another case, a firm may carry the cost of the design centre outside the country of importation as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of Article 8 with respect to the imported goods by apportioning total design centre costs to total production benefiting from the design centre and adding such apportioned cost on a unit basis to imports.

6. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.

7. In cases where the production of the element in question involves a number of countries and over a period of time, the adjustment should be added to the value actually added to that element outside the country of importation.

#### Paragraph 1(d)

1. The royalties and licence fees referred to in paragraph 1(c) of Article 8 may include, among other things, payments in respect to patents, trademarks and copyrights. However, the charges for the right to reproduce the imported goods in the country of importation shall not be added to the price actually paid or payable for the imported goods in determining the customs value.

2. Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the country of importation of the imported goods.

#### Paragraph 3

Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of Article 8, the transaction value cannot be determined under the provisions of Article 1. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a litre of a particular product which was imported by the kilogram and made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are not separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition to the royalty. However, if the amount of this royalty is based only on the imported goods and is readily quantified, an addition to the price actually paid or payable can be made.

#### Note to Article 9

For the purposes of Article 9, "time of importation" may include the time of entry for customs purposes.

#### Note to Article 11

1. Article 11 provides the importer with the right to appeal against a valuation determination made by the customs administration for the goods to be valued. Appeal may first be to a higher level in the customs administration, but the importer shall have the right in the final instance to appeal to the judiciary.

2. "Without penalty" means that the importer shall not be subject to a fine or threat of fine merely because the importer chose to exercise the right of appeal. Payment of normal court costs and lawyers' fees shall not be considered to be a fine.

3. However, nothing in Article 11 shall prevent a Member from requiring full payment of assessed customs duties prior to an appeal.

#### Note to Article 15

#### Paragraph 4

For the purposes of Article 15, the term "persons" includes a legal person, where appropriate.

#### Paragraph 4(e)

For the purposes of this Agreement, one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

### ANNEX II

#### TECHNICAL COMMITTEE ON CUSTOMS VALUATION

1. In accordance with Article 18 of this Agreement, the Technical Committee shall be established under the auspices of the CCC with a view to ensuring, at the technical level, uniformity in interpretation and application of this Agreement.

2. The responsibilities of the Technical Committee shall include the following:

(a) to examine specific technical problems arising in the day-to-day administration of the customs valuation system of Members and to give advisory opinions on appropriate solutions based upon the facts presented;

(b) To examine the procedures for the valuation of goods and to advise on the interpretation and application of the provisions of the Agreement relating to the valuation of goods.

- (f) to carry out an examination of a matter referred to it by a panel under Article 19 of this Agreement; and
- (g) to exercise such other responsibilities as the Committee may assign to it.

#### General

- 3. The Technical Committee shall attempt to complete its work on specific matters, especially those referred to it by Members, the Committee or a panel in a reasonably short period of time. As provided in paragraph 4 of Article 19, a panel shall specify a specific time period for receipt of a report of the Technical Committee and the Technical Committee shall provide its report within that period.
- 4. The Technical Committee shall be assisted as appropriate in its activities by the CCC Secretariat.

#### Representation

- 5. Each Member shall have the right to be represented on the Technical Committee. Each Member may nominate one delegate and one or more alternates to be its representatives on the Technical Committee. Such a Member so represented on the Technical Committee is referred to in this Annex as a "member of the Technical Committee". Representatives of members of the Technical Committee may be assisted by advisers. The WTO Secretariat may also attend such meetings with observer status.
- 6. Members of the CCC which are not Members of the WTO may be represented at meetings of the Technical Committee by one delegate and one or more alternates. Such representatives shall attend meetings of the Technical Committee as observers.
- 7. Subject to the approval of the Chairman of the Technical Committee, the Secretary-General of the CCC (referred to in this Annex as "the Secretary-General") may invite representatives of governments which are neither Members of the WTO nor members of the CCC and representatives of international governmental and non-governmental organizations to attend meetings of the Technical Committee as observers.
- 8. Nominations of delegates, alternates and advisers to meetings of the Technical Committee shall be made to the Secretary-General.

#### Technical Committee Meetings

- 9. The Technical Committee shall meet as necessary but at least two times a year. The date of each meeting shall be fixed by the Technical Committee at its preceding session. The date of the meeting may be varied either at the request of a member of the Technical Committee concurred in by a simple majority of the members of the Technical Committee or, in cases requiring urgent attention, at the request of the Chairman. Notwithstanding the provisions in sentence 1 of this paragraph, the Technical Committee shall meet as necessary to consider matters referred to it by a panel under the provisions of Article 19 of this Agreement.
- 10. The meetings of the Technical Committee shall be held at the headquarters of the CCC unless otherwise decided.
- 11. The Secretary-General shall inform all members of the Technical Committee and those included under paragraphs 6 and 7 at least 30 days in advance, except in urgent cases, of the opening date of each session of the Technical Committee.





## Languages and Records

22. The official languages of the Technical Committee shall be English, French and Spanish. Speeches or statements made in any of these three languages shall be immediately translated into the other official languages unless all delegations agree to dispense with translation. Speeches or statements made in any other language shall be translated into English, French and Spanish, subject to the same conditions, but in that event the delegation concerned shall provide the translation into English, French or Spanish. Only English, French and Spanish shall be used for the official documents of the Technical Committee. Memoranda and correspondence for the consideration of the Technical Committee must be presented in one of the official languages.

23. The Technical Committee shall draw up a report of all its sessions and, if the Chairman considers it necessary, minutes or summary records of meetings. The Chairman or a designee of the Chairman shall report on the work of the Technical Committee at each meeting of the Committee and at each meeting of the CCC.

## ANNEX III

1. The five-year delay in the application of the provisions of the Agreement by developing country Members provided for in paragraph 1 of Article 20 may, in practice, be insufficient for certain developing country Members. In such cases a developing country Member may request before the end of the period referred to in paragraph 1 of Article 20 an extension of such period, it being understood that the Members will give sympathetic consideration to such a request in cases where the developing country Member in question can show good cause.

2. Developing countries which currently value goods on the basis of officially established minimum values may wish to make a reservation to enable them to retain such values on a limited and transitional basis under such terms and conditions as may be agreed to by the Members.

3. Developing countries which consider that the reversal of the sequential order at the request of the importer provided for in Article 4 of the Agreement may give rise to real difficulties for them may wish to make a reservation to Article 4 in the following terms:

"The Government of ..... reserves the right to provide that the relevant provision of Article 4 of the Agreement shall apply only when the customs authorities agree to the request to reverse the order of Articles 5 and 6."

If developing countries make such a reservation, Members shall consent to it under Article 21 of the Agreement.

4. Developing countries may wish to make a reservation with respect to paragraph 2 of Article 5 of the Agreement in the following terms:

"The Government of ..... reserves the right to provide that paragraph 2 of Article 5 of the Agreement shall be applied in accordance with the provisions of the relevant note thereto whether or not the importer so requests."

If developing countries make such a reservation, Members shall consent to it under Article 21 of the Agreement.

5. Certain developing countries may have problems in the implementation of Article 1 of the Agreement insofar as it relates to importations into their countries by sole agents, sole distributors and sole concessionaires. If such problems arise in practice in developing country Members applying the

Agreement, a study of this question shall be made, at the request of such Members, with a view to finding appropriate solutions.

6. Article 17 recognizes that in applying the Agreement, customs administrations may need to make enquiries concerning the truth or accuracy of statement, document or declaration presented to them for customs valuation purposes. The Article thus acknowledges that enquiries may be made which are, for example, aimed at verifying that the elements of value declared or presented to customs in connection with a determination of customs value are complete and correct. Members, subject to their national laws and procedures, have the right to expect the full cooperation of importers in these enquiries.

7. The price actually paid or payable includes payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller.