

REGULATION

ON IMPLEMENTATION OF THE PROVISIONS OF THE CUSTOMS LAW CONCERNING VALUATION OF GOODS FOR CUSTOMS PURPOSES

(Official Gazette of the Republic of Macedonia No. 60, 25 July 2002)

Article 1

- (1) In applying the provisions of Articles 28 to 38-h of the Customs Law and those of this Regulation, the provisions set out in Annex 1, being integral part of this Regulation, shall also apply.
The provisions as set out in the first column of Annex 1 shall be applied in the light of the interpretative note appearing in the second column.
- (2) If it is necessary to make reference to generally accepted accounting principles in determining the customs value, the provisions of Annex 2, being integral part of this Regulation, shall apply.

Article 2

- (1) For the purposes of this Regulation:
 - a) 'The Agreement' means the Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade concluded in the framework of the multilateral trade negotiations of 1973 to 1979 and referred to in the first indent of Article 35 (1) of the Customs Law;
 - b) 'produced goods' includes goods grown, manufactured and mined;
 - c) 'identical goods' means goods produced in the same country which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical;
 - d) 'similar goods' means goods produced in the same country which, although not alike in all

- husband and wife,
- parent and child,
- brother and sister (whether by whole or half blood),
- grandparent and grandchild,
- uncle or aunt and nephew or niece,

valuation, only the last sale, which led to the introduction of the goods into the customs territory of the Republic of Macedonia, or a sale taking place in the customs territory of the Republic of Macedonia before entry for free circulation of the

(1) Where the method of calculation of the amount of a royalty or licence fee derives from the price of the imported goods, it may be assumed, in the absence of evidence to the contrary, that the payment of that royalty or licence fee is related to the goods to be valued.

copies shall be retained by the customs authority; the other, bearing the stamp of the office in question and the serial number of the customs declaration at the said customs office shall be returned to the declarant to forward it to the person to whom the invoice is made out.

- (2) The person referred to in Article 30 (3) of this Regulation shall submit to the customs authority all other relevant information on other payments made or to be made (i.e. transport costs invoice, insurance documents, etc.) and when requested by the customs authority other documents necessary to determine the customs value.

Article 34

On the date when this Regulation enters into force the Regulation on the Rules and Procedures for Customs Valuation (Official Gazette of the Republic of Macedonia 17/2000) shall cease to be valid.

Article 35

This Regulation shall enter into force on the date of its publication in the Official Gazette of the Republic of Macedonia and shall apply as of 30 July 2002.

No.23-3517/1
9 July 2002
Skopje

President of the Government
of the Republic of Macedonia
Ljubco Georgievski

ANNEX 1
INTERPRETATIVE NOTES ON CUSTOMS VALUE

First column	Second column
Reference to provisions of the Customs Code	Notes
Article 29 (1)	The price actually paid or payable refers to the price for the imported

	<p>3. Where the customs authority is unable to accept the transaction value without further inquiry, it should give the declarant an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale, in this context, the customs authority should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although related under the provisions of Article 3 of this Regulation, buy from and sell to each other as if they were not related, this would demonstrate that the price had 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 him, 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 of time (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.</p> <p>4. Paragraph 2 b) provides an opportunity for the declarant to demonstrate that the transaction value closely approximates to a 'test' value previously accepted by the customs authority and is therefore acceptable under the provisions of Article 29. 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 authority already has sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in paragraph 2 b) has been met, there is no reason for them to require the declarant to demonstrate that the test can be met.</p>
Article 29 (2) b)	A number of factors must be taken into consideration in determining whether one value 'closely approximates' to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and, whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the 'test' values set forth in Article 29 (2) b).
Article 29 (3) a)	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.
Article 30 Article 31	1. In applying these provisions, the customs authority shall, where possible, use a sale of identical or similar goods, as appropriate, at the same commercial level and in substantially the same quantity as the goods being valued. Where no such sale is found, a sale of identical or similar goods, as appropriate, that takes place under any one of the following three conditions may be used:

	<p>(a) a sale at the same commercial level but in a different quantity;</p> <p>(b) a sale at a different commercial level but in substantially the same quantity; or</p> <p>(c) a sale at a different commercial level and in a different quantity.</p> <p>2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:</p> <p>(a) quantity factors only;</p> <p>(b) commercial level factors only; or</p> <p>(c) both commercial level and quantity factors.</p> <p>3. 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 the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring 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 or similar imported goods, as appropriate, for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by 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 customs value under the provisions of Article 30 and Article 31 is not appropriate.</p>
Article 30 (1) b Article 31 (1) b)	The expression 'and/or' allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described in paragraph 1 of the interpretative note to Articles 30 and 31.
Article 33 (1) a) 1.	<p>1. The words 'profit and general expenses' should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by the declarant unless his figures are inconsistent with those obtaining in sales in the Republic of Macedonia of imported goods of the same class or kind. Where the declarant's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by the declarant.</p> <p>2. In determining either the commissions or the usual profits and general expenses under this provision, the question whether certain goods are of the same class or kind as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in the Republic of Macedonia of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of this provision, 'goods of the same class or kind' includes goods imported from the same country as the goods being valued as well as goods imported from other countries.</p>
Article 33 (2)	1. Where this method of valuation is used, deductions made for the value added by further processing shall be based on objective and

	<p>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 Republic of Macedonia and accept a low 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 Republic of Macedonia, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.</p> <p>6. Whether certain goods are 'of the same class or kind' as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of Article 34, sales for export to the Republic of Macedonia of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 34, 'goods of the same class or kind' must be from the same country as the goods being valued.</p>
Article 35 (1)	<p>1. Customs values determined under the provisions of Article 35 (1) should, to the greatest extent possible, be based on previously determined customs values.</p> <p>2. The methods of valuation to be employed under Article 35 (1) should be those laid down in Articles 29 and 34, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Article 35 (1).</p> <p>3. Some examples of reasonable flexibility are as follows:</p> <p>(a) <i>identical goods</i> — the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of Articles 33 and 34 could be used;</p> <p>(b) <i>similar goods</i> — the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Articles 33 and 34 could be used;</p> <p>(c) <i>deductive method</i> — the requirement that the goods shall have been sold in the 'condition as imported' in Article 33 (1) a) of the Customs Code could be flexibly interpreted; the '90 days' requirement could be administered flexibly.</p>
Article 36 (1) b) 2.	<p>1. There are two factors involved in the apportionment of the elements specified in Article 36 (1) b) 2. to the imported goods — the value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements should be</p>

	<p>6. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.</p> <p>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 limited to the value actually added to that element outside the Republic of Macedonia.</p>
Article 36 (1) c)	The royalties and licence fees referred to in Article 36 (1) c) may include, among other things, payments in respect to patents, trademarks and copyrights.
Article 36 (2)	Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of Article 36, the transaction value cannot be determined under the provisions of Article 29. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a liter of a particular product that 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 no longer separately identifiable, or when the royalty can not be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

First column	Second column
Reference to provisions of the Regulation	Notes
Article 3 (1) e)	One person shall be deemed to

ANNEX 2

APPLICATION OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR THE DETERMINATION OF CUSTOMS VALUE

- (1) "Generally accepted accounting principles" refers 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 guidelines of

1 NAME AND ADDRESS OF SELLER (Block Letters)	FOR OFFICIAL USE	
2 (a) NAME, ADDRESS AND VAT NUMBER OF BUYER 2 (b) NAME, ADDRESS AND VAT NUMBER OF DECLARANT (Block Letters)		
IMPORTANT NOTE By signing and lodging the declaration the person accepts responsibility for the accuracy and completeness of the particulars given on this form and on any continuation sheet lodged with it and the authenticity of any document produced in support. The person also accepts responsibility to supply any additional information or document necessary to establish the customs value of the goods.	3 Terms of delivery	
	4 Number and data of invoice	
	5 Number and data of contract	
6 Number and date of any previous Customs declaration concerning boxes 7 to 9		Enter X where applicable
7 (a) Are the buyer and the seller RELATED in the sense of Article 3 (*) of the Regulation on implementation of the provisions of the Customs Code concerning valuation of goods for customs purposes? If "NO", go to box 8. (b) Did the relationship INFLUENCE the price of the imported goods? (c) (reply optional) Does the transaction value of the imported goods CLOSELY APPROXIMATES to a value mentioned in Article 29 (2) b) of the Customs Code? If "YES" , give details:		yes n yes n yes n
8 (a) Are there any RESTRICTIONS as to the disposition or use of the goods by the buyer, other than restrictions which : - are imported or required by law or by other regulation of the Republic of Macedonia; - limit the geographical area in which the gods may be resold , or - do not substantially affect the value of the goods? (b) Is the sale of price subject to some CONDITION or RESTRICTION for which a value cannot be determined with respect to the goods		

- h) they are members of the same family.
- 2. The fact that the buyer and the seller are related need not preclude the use of a transaction value (see Article 29 (2) of the Customs Code and the Interpretative Notes on that provision in Annex 1 to the Regulation on implementation of the provisions of the Customs Code concerning valuation of goods for customs purposes.

FOR OFFICIAL USE

Item

Item

Item

A. Basis of

ANNEX 4

DC

FOR OFFICIAL USE					
		Item	Item	Item	
A. Basis of calculation	11	(a) Net price in CURRENCY OF INVOICE(price actually paid or price payable for settlement at the material time for valuation for customs purposes)			
		(b) Indirect payments (see box 8 (b))			
	(rate of exchange:)				
	12	Total A in DENARS.			
B. ADDITIONS : Costs in DENARS INCLUDED in A above (*) QUOTE BELOW previous relevant Customs decisions if any :	13	Costs incurred by the buyer:			
		(a) commissions, except buying commissions			
		(b) brokerage			
	(c) containers and packing				
	14	Goods and services supplied 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: The values shown represent an apportionment where appropriate			
		(a) materials, components, parts and similar items incorporated in the imported goods			

(*) Where amounts are payable in FOREIGN CURRENCY, indicate in this section the amount in foreign currency and the rate of exchange by reference to each relevant element and item:

Reference

Amount

Rate of exchange