

THE PARLIAMENT OF THE REPUBLIC OF MOLDOVA

LAW ON THE CUSTOMS TARIFF

No. 1380-XII from 20.11.97

CHAPTER 1

GENERAL PROVISIONS

Article 1 The ariea of the law application

The present law establishes the manner of formation and application of the customs tariff on the goods introduced or drawn out from the territory of the Republic of Moldova, the rules of imposing duties on goods, as well as methods of determination of the value within the custom house and of the origin country of the goods.

(2) The objective of the customs tariff application:

- a) the optimalization of the imports structure,
- b) the equilibration of the imports and exports of goods, the protection of the home producers;
- c) the creation of the favorable conditions for the integration of the economy of the Republic of Moldova into the world economy.

Article 2 Basic notions

(1) For the **purpose sense** of the present law the following **notions terms** are defined:

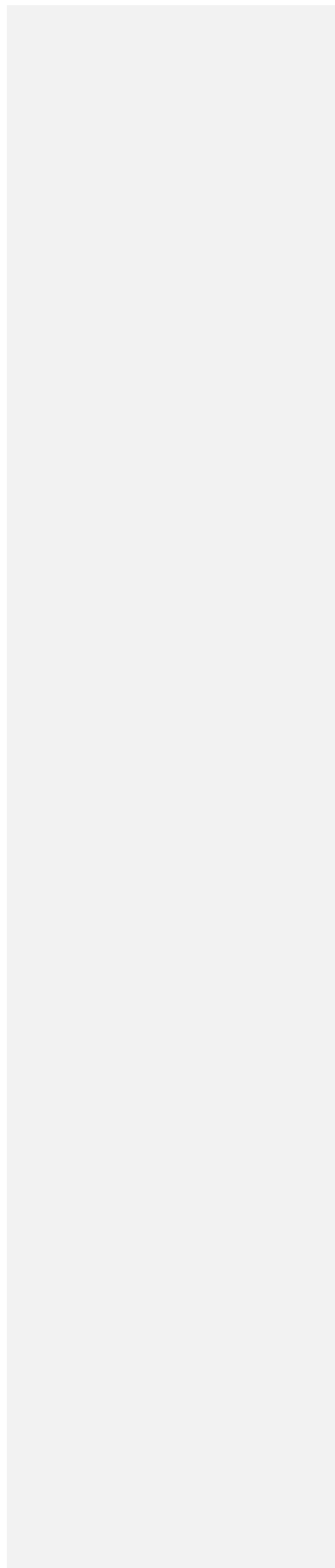
Customs tariff - a **tabel that includes catalogue a comprehensive nomenclature of goods, that includes the customs duties expressed in percentage export and import lists of the goods imported or exported from the customs territory of the Republic of Moldova as well as those that come from the application of preferential tariff measures in accordance with legal regulations, the the quotes of the custom duty applied on this goods;**

Customs border is the State border of the Republic of Moldova;

Customs territory- the territory whereon the Republic of Moldova exercises its exclusive jurisdiction in the area of customs activities;

The passing of the goods over the customs border **the introduction on into** or the **drawing out of removal from** the customs territory of **the goods as well as their covering in** transit through any **udes the codes,**

the names and the description of the goods in **correspondence with the classifing systems** applied in **the international practice;**



goods that have been produced or exported with direct or indirect use of subsidies, if they cause or threaten to cause material injury to domestic producers of like or similar goods, or hinder the organization or extension of the production of identical or similar goods in the country.

Article 4. Establishment and Application of the Customs Duty

- (1) The rates of customs duties and the list of the taxed goods are established by the Parliament.
- (2) The rates of the customs duties are applied in conformity with legislation and international agreements where in the Republic of Moldova participates.
- (3) The rates of the customs duties are unique and can not be modified, except cases foreseen by legislation and international agreements wherein the Republic of Moldova Participates.

CHAPTER III

CUSTOMS VALUE OF GOODS

Article 5

Customs valuation system

1. The system of determining the customs value of goods is applied for the goods introduced or drawn out from the customs territory.
2. The manner of application of the customs valuation system in the customs territory is established by the Government on the basis of the present law and the international agreements wherein the Republic of Moldova participates.

Article 6

Declaration of the customs value of goods

1. The declarant announces the customs value of the goods to the customs authorities when the goods are transported through the customs border of the country.
2. The manner and conditions of declaring the customs value of the goods introduced and drawn out from the customs territory, as well as the form of the declaration, are established by the Government in conformity with current legislation and the international agreements wherein the Republic of Moldova participates.

Article 7

Rights and responsibilities of the person making the declaration

1. The customs value stated by the person making the declaration, as well as data provided regarding its calculation, should be based on trustworthy information supported by proper documents.
2. If it is required to confirm the customs value stated by a person making the declaration, the latter is obliged to present the required data to the customs authorities, at their request. If customs have off doubts whether the data provided by the declarant for customs valuation are authentic, the declarant has the right to determine the customs value of the goods through methods foreseen by the present law.
3. If it is required to define more precisely the customs value of the declared good, the person making the declaration, has the right to ask the customs authorities to provide him with the declared goods for use, offering any property as collateral or the guarantee of an authorized bank, or to pay the customs duty established by the customs authority.
4. In cases where a declarant disagrees with the decision of the customs authorities over the determined customs value of goods, a complaint to the customs authority or to a court can be lodged against this decision according to procedures established by the law without penalty.
5. Additional expenses incurred by the declarant to provide a more precise customs evaluation of goods or to obtain additional information are supported by the person making the declaration: in case if customs authorities find out deviations from data presented in declaration. Expenses related to the realization of supplementary control at the request of customs authorities and the results that confirm the primary information declared by the economic agent are covered by the solicitant.
6. To the context of articles 7 and 8 of the present law, the term "without penalty" it is understood

to mean that the importer is not subject of a fine (penalty) or of the possibility of penalty for the simple reason that he has exercised his right of appeal.

~~an adequate portion of the following goods and services that have been provided free by the buyer directly or indirectly to be used in the production or sale for export of the goods under valuation;~~

~~— raw materials, materials, parts, half finished products and other components comprising an integral part of the goods under valuation;~~

~~— instruments, dies, moulds and other similar items used in the production of the goods under valuation;~~

~~— materials used to produce the goods under valuation (lubricants, fuel, etc.);~~

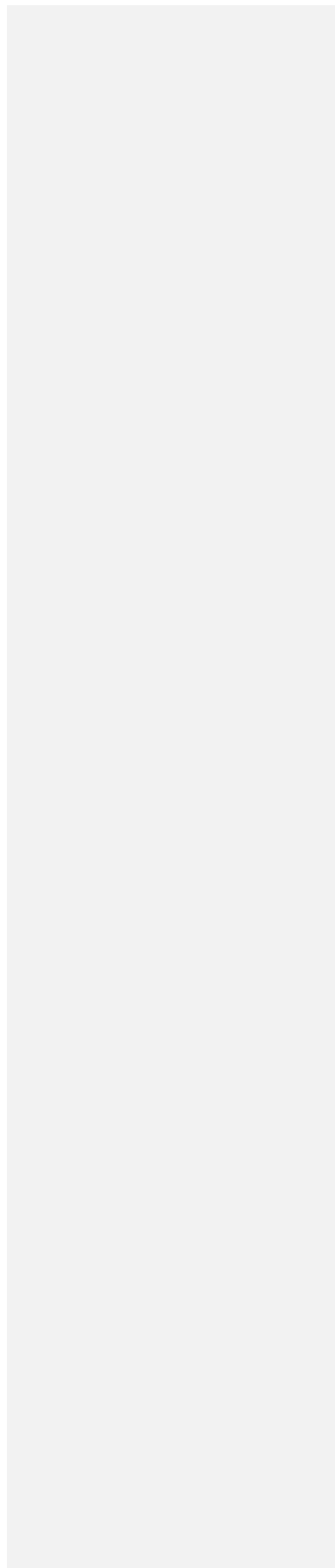
~~— engineering developments, experimental construction works, technical design, aesthetic development, drawings and sketches performed~~

ref4;Rep.59999 b199 10.0 0 .04 ..yci(t)5

least 5% of shares with a right to vote in the statutory capital of another participant in the transaction;

- both participants in the transaction are under direct or indirect control of a third party;
- the participants in the transaction control jointly a third party directly or indirectly;
- one of the participants in the transaction is under direct or indirect control of another participant in the transaction;
- the participants in the transaction or their officials are relatives.

5. In determining whether the transaction value is acceptable fo



~~4. The customs value of the goods valued on the basis of value of transaction with identical or similar goods, could be rectified in conditions of the article no.11~~

~~Where the costs and charges referred to in paragraph 1(a) of Article 11 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 identical goods or similar goods in question arising from differences in distances and modes of transport.~~

Formatted: Bullets and Numbering

~~5.4. In case when at customs valuation of goods, as a basis can be taken the value of one transaction out of few transaction with identical or similar goods, the lowest value of a transaction is applied.~~

Formatted: Bullets and Numbering

Article 15

~~1. If the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported, the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following:”~~

~~(a) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;~~

~~(b) the usual costs of transport and insurance and associated costs incurred within the country of importation;~~

~~(c) where appropriate, the costs and charges referred to in paragraph 1(a) of Article 11; and~~

~~(d) the customs duties and other national taxes payable in the country of importation by reason of the importation or sale of the goods.~~

~~2. “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, 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.”~~

~~3. “If neither the imported goods nor identical nor 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.”~~

Method of customs valuation through the method of unitary cost

~~1. Customs valuation of goods by the method of unitary cost is applied in cases where the goods identical or similar to those under valuation will be sold within the territory of the Republic of Moldova without changing their original condition.~~

~~2. The basis for establishing the customs value of goods by applying the unitary cost method as a basis is is taken the price per unit of goods, at the moment of import, at which these goods are sold in big quantities to a person that has no interdependence relations with the seller.~~

countries, a customs union of countries, a region or a part of a country, if there is a need to specify them when determining the origin of goods.

Article 20

Goods wholly obtained in a given country

The following goods are recognized as wholly obtained in a given country:

- (a) minerals extracted on its territory or in its territorial waters;
- (b) vegetable production, cultivated or collected on its territory;
- (c) living animals, born and raised on its territory;
- (d) products obtained in this country from animals raised therein;
- (e) products obtained in this country from hunting and fishing;
- (f) sea products, obtained and/or produced in the oceans of the world by vessels of this country or by vessels it has chartered (freighted);
- (g) high technology products, obtained in space craft owned or chartered by this country ;

- b) operations to prepare goods for sale and transport (fractioning of a consignment, formation of shipments, sorting, repacking);
- c) simple assembling operations;
- d) mixing of goods (components) without providing the obtained products with specifications making them substantially different from the initial components.

5.. In cases when the respective documents stipulated the information on the concrete good or its country of origin, the criteria of the substantial transformation of goods, specified in paragraph 3) subparagraph), is applied.

Article 22

Determination of the country of origin of goods delivered in consignments

1. When goods in a disassembled or incomplete state delivered in several consignments, when their delivery in a single consignment is impossible for production or transportation reasons, and also in cases where a consignment of goods is split into several shipments because of an error, these should be considered, providing it is shown of the person making the declaration, as unified goods when identifying the country of origin.
2. This condition of applying the provisions of paragraph 1 are:
 - a) the customs authority has been advised in advance about splitting of disassembled goods into several consignments and have been provided with the forms for such splitting, detailed specifications of every consignment, showing the codes of goods according to the commodity classification according the Goods Description and Coding System, and the value and country of origin of goods in every consignment;
 - b) documentary confirmation of erroneous split of goods into several shipments;
 - c) shipment of all consignments from the same country by the same supplier;
 - d) importation of all consignments through the same customs station;
 - e) shipment of all consignments of goods within 6 months from the date of acceptance of the customs declaration or from the date of expiration of the period for submitting the declaration for the first consignment.

Article 23

Confirmation of the origin of goods

1. To obtain the confirmation of the origin of goods from a given country, the customs authority is entitled to require presentation of a certificate of origin of goods.
2. Introducing goods into the customs territory of the Republic of Moldova, the presentation of a certificate of origin of goods is compulsory for:
 - a) goods originated from countries that are provided by the Republic of Moldova with preferential conditions regarding the customs tariff;
 - b) goods whose importation from a given country is regulated by means of quantitative restrictions (quotas) or by other means of regulation of foreign trade;
 - c) if stipulated by international agreements to the Republic of Moldova, and by legislation of the Republic of Moldova in the areas of environmental protection, public health, protection of consumers'

rights in Moldova, public order, national security and other vital interests of the Republic of Moldova;

- d) in cases where there is no information about the origin of goods in the documents submitted for customs clearance, or if the customs of the Republic of Moldova have grounds to believe that the declared information about the origin of goods is not trustworthy.

4. When goods are exported from the customs territory of the Republic of Moldova, the certificate of origin of goods, when required by respective agreements, national regulations of an importing country or international commitments of the Republic of Moldova, is issued by an authorized local public administrative body or organization.

Article 24

Certificate of origin of goods

1. Certificate of origin of goods should confirm clearly the fact that the goods indicated therein originate from the respective country, and it should contain the following:

- (a) a written declaration by the consignor stating that the goods meet the regin;
- (b) a written statement by a competent body of the exporting country that has issued the certificate that the data of the certificate are trustworthy.

2. The certificate of origin of goods should be attached to the customs declaration and other documents produced for customs clearance. If the certificate is lost, then its officially certified duplicate should be produced.

3. If any doubts arise regarding the authenticity of the certificate or data contained therein, including the data about country of origin of goods, the customs of the Republic of Moldova may request the authorities that have issued the certificate or from competent organizations of the country shown as the country of origin of goods to provide additional or more specific information.

4. In cases stipulated by the present law, the goods are not considered as originated from a given country until a certificate of origin issued in the proper way or the data requested are provided.

Article 25

Additional provisions regarding identification of country of origin of goods

1. For goods coming from countries with which the Republic of Modova is part at agreements regarding the "Most favoured nation" status can be applied (re-established) the preferential treatment for the customs tariff if the proper certification of their origin is produced within one year from the date the customs procedures are completed.

2. While identifying a country of origin of goods the origin of energy resources, machines, equipment and tools used for their production is not taken into account.

~~3.~~ ~~3.~~ Particular procedures to identify a country of origin of goods imported into the customs territory from third countries, as well as from free customs zones and free customs warehouses located on the territory of the Republic of Moldova, are established by the Government.

~~4.~~ Upon the request of an exporter, importer or any person with a justifiable cause, assessments of the origin and preferential origin of a good will be issued as soon as possible but no later than 150 days after a request for such an assessment provided that all necessary elements have been submitted. Requests for such assessments shall be accepted before trade in the good concerned begins and may be accepted at any later point in time. Such assessments shall remain valid for three years provided that the facts and conditions, including the rules of origin and preferential

rules of origin, under which they have been made, remain comparable.”

Article 26

Reasons to refuse the passage of goods

1. The customs authority can refuse the passage of goods through the customs border of the Republic of Moldova only if there are sufficient grounds to believe that they originate from a country whose goods are not allowed to pass through, according to international agreements and/or legislation of the Republic of Moldova.
2. Failure to submit a certificate issued in a proper way or information about the origin of goods does not constitute reason to refuse the passage of goods through the customs border.
3. The passage of goods without trustworthy origin determined is permitted under the condition of payment of customs duties at the maximum rates of the customs tariff of the Republic of Moldova.

CHAPTER VI

TARIFF PREFERENCES

Article 27

Tariff preferences

1. As Tariff preferences are considered to be facilities provided by a country, in reciprocal or unilateral conditions in respect of goods passed over the customs border of this country under the form of some established customs share for the preferential import or export of goods, reduction of customs tariff, exemption from duties, return of duties paid earlier.
2. The tariff preferences are established by the present law and cannot have an individual nature except for cases stipulated by article 28.
3. Tariff preferences are applied in the manner established by the legislation and international agreements of the Republic of Moldova.

Article 28

Exemption from duties

The following is exempt from duties:

- a) means of transportation in international traffic of cargoes, baggage and passengers, and other items of materials and technical

- d) goods introduced and drawn out from the customs territory as humanitarian aid, their destination considered special by the State;
- e) goods introduced and drawn out from the customs territory gratis basis and/or for charitable purposes on behalf of the State, their destination being confirmed by the authorized body;
- f) goods introduced or drawn out from the customs territory under the customs supervision within the respective customs regimes;
- g) goods transported under customs supervision as transit through the customs territory of the Republic of Moldova and intended for third countries;
- h) goods transported through the customs border by physical persons and not intended for production or other commercial activity in accordance with the Customs Code of the Republic of Moldova;
- i) goods preliminary imported in zones of free initiative in order to be processed and further exported;
- j) printed periodicals and books in the areas of education, science and culture, books for kindergartens, education institutions and medical.

CHAPTER VIII IX
INTERNATIONAL AGREEMENTS

Article 30 35

International agreements

If an international agreement wherein the Republic of Moldova participates stipulates norms different from those contained in the present law, the international agreement norms shall be applied.

CHAPTER X

Note to Article 7

Paragraph 4

"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.

Note to Article 11

Paragraph 1(b) line one

The term "buying commissions" means fees paid by an importer to the importer's agent for the service of representing the importer abroad in the purchase of the goods being valued.

Paragraph 1(c) line three

1. There are two factors involved in the apportionment of the elements specified in paragraph 1(c) line three of Article 11 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 made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.

2. Concerning the value of the element, if the importer acquires the element from a seller

Price Actually Paid or Payable

1. The price actually paid or payable is the total payment 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 way 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 the buyer's 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;

(b) the cost of transport after importation;

(c) duties and taxes of the country of importation.

4. The price actually paid or payable refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.

Paragraph 2(a) line three

Among restrictions which would not render a price actually 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 automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.

Paragraph 2(b)

1. If the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued, the transaction value shall not be acceptable for customs purposes. Some examples of this include:

(a) the seller establishes the price of the imported goods on condition that the buyer

(c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that the seller will receive a specified quantity of the finished goods.

2. However, conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in the country of importation shall not result in rejection of the transaction value for the purposes of Article 1. Likewise, if the buyer undertakes on the buyer's own account, even though by agreement with the seller, activities relating to the marketing of the imported goods, the value of these activities is not part of the customs value nor shall such activities result in rejection of the transaction value.

Paragraraph 2(d)

Note to Article 12

1. In applying Article 12, the customs administration shall, wherever possible, use a sale of identical goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of identical goods that takes place under any one of the following three conditions may be used:

(a) a sale at the same commercial level but in different quantities;

(b) a sale at a different commercial level but in substantially the same quantities; or

(c) a sale at a different commercial level and in different quantities.

2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:

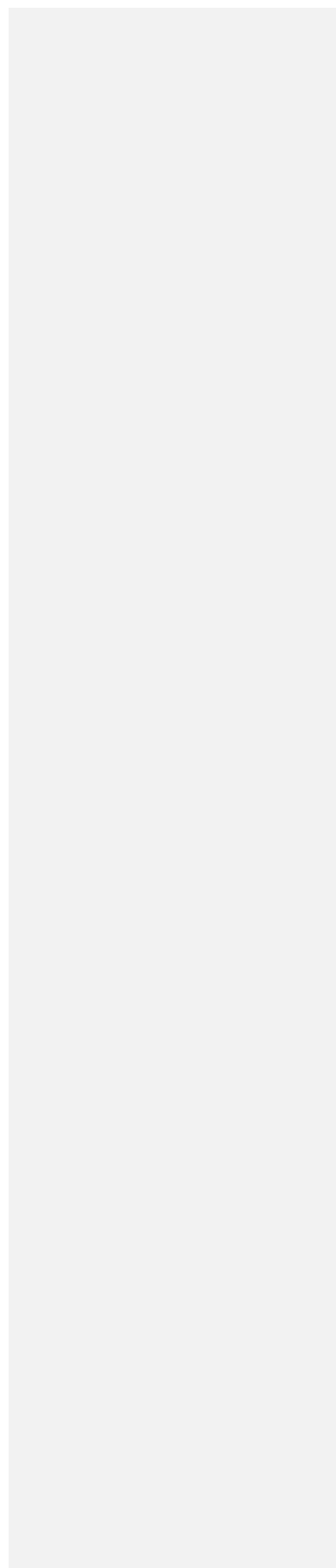
(a) quantity factors only;

(b) commercial level factors only; or

(c) both commercial level and quantity factors.

3. The expression "and/or" allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.

4. 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 adjustments, 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 imported goods 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



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

Note to Article 16

1. As a general rule, customs value is determined under this Law 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(a) of Article 16 is to be determined on the basis of information relating to the production of the goods being valued supplied by or on

country of importation, 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.

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 paragraph 4 of Article 8.

7. The "general expenses" referred to in paragraph (b) of Article 16 covers the direct and indirect costs of producing and selling the goods for export which are not included under paragraph 1(a) of Article 6.

8. Whether certain goods are "of the same class or kind" as other goods must be