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Legislation

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I *Acts whose publication is obligatory*

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1493/80

of 11 June 1980

extending as a transitional measure the validity of certain Regulations based on
Council Regulation (EEC) No 803/68

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes ⁽¹⁾, and in particular Article 22 (4) thereof,

Whereas, pursuant to Article 22 (4) of Regulation (EEC) No 1224/80, the validity of Regulations adopted pursuant to Regulation (EEC) No 803/68 ⁽²⁾ may be extended as a transitional measure for a period not exceeding six months under the procedure provided for in Article 19 of the said Regulation (EEC) No 1224/80;

Whereas it is appropriate, as a transitional measure, to extend the application of certain technical Regulations up to the end of 1980;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Customs Valuation Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1. The validity of the following Regulations based upon Regulation (EEC) No 803/68 shall, as a transitional measure, be extended until 31 December 1980:

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 6.

— Commission Regulation (EEC) No 1150/70 of 18 June 1970 on the place of introduction within the meaning of Article 6 (2) of Regulation (EEC) No 803/68 on the valuation of goods for customs purposes,

— Commission Regulation (EEC) No 1570/70 of 3 August 1970 establishing a system of standard average values for citrus fruits, as last amended by Regulation (EEC) No 223/78,

— Commission Regulation (EEC) No 1641/75 of 27 June 1975 establishing a system of standard average values for the determination of the value for customs purposes of apples and pears, as last amended by Regulation (EEC) No 224/78,

— Commission Regulation (EEC) No 1025/77 of 17 May 1977 specifying, for purposes of Article 6 (2) of Council Regulation (EEC) No 803/68 on the valuation of goods for customs purposes, the place of introduction for goods carried by sea,

— Commission Regulation (EEC) No 1033/77 of 17 May 1977 on the air transport costs to be included in the value for customs purposes,

— Commission Regulation (EEC) No 2741/78 of 24 November 1978 on postal charges to be taken into consideration when determining the value for customs purposes of goods sent by post.

2. The extension of the validity, as a transitional measure, of Regulations (EEC) No 1570/70 and (EEC) No 1641/75, shall not preclude the right of an importer to have the provisions of Regulation (EEC) No 1224/80 applied.

If an importer exercises his right to have the provisions of Regulation (EEC) No 1224/80 applied to goods which would otherwise be valued under the system of standard

average values, Regulations (EEC) No 1570/70 and (EEC) No 1641/75 shall no longer apply to importations by him during the transitional period.

Article 2

This Regulation shall enter into force on 1 July 1980.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 1980.

For the Commission
Étienne DAVIGNON
Member of the Commission

COMMISSION REGULATION (EEC) No 1494/80

of 11 June 1980

on interpretative notes and generally accepted accounting principles for the purposes of
customs value

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No 1224/80
of 28 May 1980 on the valuation of goods for customs
purposes ⁽¹⁾, and in particular Article 19 (1) (a) thereof,

Whereas the provisions of this Regulation are such as to
ensure that the value for customs purposes will be
determined in a uniform manner throughout the
Community,

Whereas the measures provided for in this Regulation are
in accordance with the opinion of the Customs Valuation
Committee,

Article 1

1. In applying Regulation (EEC) No 1224/80,
Member States shall comply with the provisions set out
in the Annexes hereto.

2. The provisions of Regulation (EEC) No 1224/80
referred to in the first column of Annex I must be applied
in the light of the interpretative note appearing in the
second column.

3. If it is necessary to make reference to generally
accepted accounting principles in determining the
customs value, the provisions of Annex II shall apply.

Article 2

This Regulation shall enter into force on 1 July 1980.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 1980.

For the Commission

Étienne DAVIGNON

Member of the Commission

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

ANNEX I

First column	Second column
Reference to provisions of Title I	Notes
Article 1 (2) (e)	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.
Article 2 (3)	1. Customs values determined under the provisions of Article 2 (3) should, to the greatest extent possible, be based on previously determined customs values. 2. The methods of valuation to be employed under Article 2 (3) should be those laid down in Articles 3 to 7 inclusive, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Article 2 (3). 3. Some examples of reasonable flexibility are as follows: (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 6 and 7 could be used. (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 6 and 7 could be used. (c) <i>Deductive method</i> – the requirement that the goods shall have been sold in the 'condition as imported' in Article 6 (1) (a) could be flexibly interpreted; the '90 days' requirement could be administered flexibly.
Article 3 (1)	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.
Article 3 (1) (a) (iii)	An example of such restriction 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.

First column	Second column
Reference to provisions of Title I	Notes
Article 3 (1) (b)	Some examples of this include: (a) the seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities; (b) the price of the imported goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods; (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 he will receive a specified quantity of the finished goods. 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 3.
Article 3 (2)	1. Paragraphs 2 (a) and (b) provide different means of establishing the acceptability of a transaction value. 2. Paragraph 2 (a) provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the customs value provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the customs administration have no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the customs administration may have previously examined the relationship, or it may already have detailed information concerning the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price. 3. Where the customs administration is unable to accept the transaction value without further inquiry, it should give the importer 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 administration 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 1, 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.

First column	Second column
Reference to provisions of Title I	Notes
Article 3 (2) (<i>cont'd</i>)	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 3. 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 (b) has been met, there is no reason for it to require the importer to demonstrate that the test can be met.
Article 3 (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 3 (2) (b).
Article 3 (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 4	1. In applying this Article, the customs administration shall, wherever possible, use a sale of identical goods 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 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 a different quantity; (b) a sale at a different commercial level but in substantially the same quantity; or (c) a sale at a different commercial level and in a different quantity. 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.

First column	Second column
Reference to provisions of Title I	Notes
Article 4 (cont'd)	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 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 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 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 this Article is not appropriate.
Article 5	1. In applying this Article, the customs administration shall, wherever possible, use a sale of similar goods 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 similar 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 a different quantity; (b) a sale at a different commercial level but in substantially the same quantity, or (c) a sale at a different commercial level and in a different quantity. 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 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 similar 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 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 this Article is not appropriate.

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Reference to provisions of Title I	Notes																
Article 6 (1)	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 or on behalf of the importer unless his figures are inconsistent with those obtaining in sales in the country of importation of imported goods of the same class or kind. Where the importer’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 or on behalf of the importer. 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 country of importation 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.																
Article 6 (2)	1. Where this method of valuation is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations. 2. This method of valuation would normally not be applicable when, as a result of the 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 accurately 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 sold 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.																
Article 6 (3)	1. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities. <table><tr><th>Sale quantity</th><th>Unit price</th><th>Number of sales</th><th>Total quantity sold at each price</th></tr><tr><td>One to 10 units</td><td>100</td><td>10 sales of five units Five sales of three units</td><td>65</td></tr><tr><td>11 to 25 units</td><td>95</td><td>Five sales of 11 units</td><td>55</td></tr><tr><td>Over 25 units</td><td>90</td><td>One sale of 30 units One sale of 50 units</td><td>80</td></tr></table> The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is 90.	Sale quantity	Unit price	Number of sales	Total quantity sold at each price	One to 10 units	100	10 sales of five units Five sales of three units	65	11 to 25 units	95	Five sales of 11 units	55	Over 25 units	90	One sale of 30 units One sale of 50 units	80
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Reference to provisions of Title I	Notes																										
Article 6 (3) (<i>cont'd</i>)	2. 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. 3. A third example would be the following situation where various quantities are sold at various prices. (a) Sales <table> <tr> <th><i>Sale quantity</i></th><th><i>Unit price</i></th></tr> <tr> <td>40 units</td><td>100</td></tr> <tr> <td>30 units</td><td>90</td></tr> <tr> <td>15 units</td><td>100</td></tr> <tr> <td>50 units</td><td>95</td></tr> <tr> <td>25 units</td><td>105</td></tr> <tr> <td>35 units</td><td>90</td></tr> <tr> <td>5 units</td><td>100</td></tr> </table> (b) Total <table> <tr> <th><i>Total quantity sold</i></th><th><i>Unit price</i></th></tr> <tr> <td>65</td><td>90</td></tr> <tr> <td>50</td><td>95</td></tr> <tr> <td>60</td><td>100</td></tr> <tr> <td>25</td><td>105</td></tr> </table> In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is 90.	<i>Sale quantity</i>	<i>Unit price</i>	40 units	100	30 units	90	15 units	100	50 units	95	25 units	105	35 units	90	5 units	100	<i>Total quantity sold</i>	<i>Unit price</i>	65	90	50	95	60	100	25	105
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65	90																										
50	95																										
60	100																										
25	105																										
Article 7	1. As a general rule, customs value is determined under this Regulation on the basis of information readily available in the Community. 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 Community. Furthermore, in most cases the producer of the goods will be outside the jurisdiction of the authorities of the Member States. 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 Article 7 (1) (a) 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 accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.																										

First column	Second column
Reference to provisions of Title I	Notes
Article 7 (<i>cont'd</i>)	3. The 'amount for profit and general expenses' referred to in Article 7 (1) (b) is to be determined on the basis of information supplied by or on behalf of the producer unless his figures are inconsistent 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. 4. No cost or value of the elements referred to in Article 7 (3) shall be counted twice in determining the computed value. 5. It should be noted in this context that the 'amount for profit and general expenses' has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and his general expenses are high, his profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being launched in the Community and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate that he is taking a low profit on his sales of the imported goods because of particular commercial circumstances, his actual profit figures should be taken into account provided that he has valid commercial reasons to justify them and his 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 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 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. 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 7, sales for export to the country of importation 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 7, 'goods of the same class or kind' must be from the same country as the goods being valued.
Article 8 (1) (b) (ii)	1. There are two factors involved in the apportionment of the elements specified in Article 8 (1) (b) (ii) 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 not related to him at a given cost, the value of the element is that cost. If the element was produced by the importer or by a person related to him, its value would be the cost of producing it. If the element had been previously used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or production would have to be adjusted downwards to reflect its use in order to arrive at the value of the element.

First column	Second column
Reference to provisions of Title I	Notes
Article 8 (1) (b) (ii) (<i>cont'd</i>)	3. Once a value has been determined for the element, it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment, if the importer wishes to pay duty on the entire value at one time. As another example, the importer may request that the value be apportioned over the number of units produced up to the time of the first shipment. As a further example, he may request that the value be apportioned over the entire anticipated production where contracts or firm commitments exist for that production. The method of apportionment used will depend upon the documentation provided by the importer. 4. As an illustration of the above, an importer provides the producer with a mould to be used in the production of the imported goods and contracts with him to buy 10 000 units. By the time of arrival of the first shipment of 1 000 units, the producer has already produced 4 000 units. The importer may request the customs administration to apportion the value of the mould over 1 000, 4 000 or 10 000 units.
Article 8 (1) (b) (iv)	1. Additions for the elements specified in Article 8 (1) (b) (iv) should be based on objective and quantifiable data. In order to minimize the burden for both the importer and customs administration in determining the values to be added, data readily available in the buyer's commercial record system should be used in so far as possible. 2. For those elements supplied by the buyer which were purchased or leased by the buyer, the addition would be the cost of the purchase or the lease. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them. 3. The ease with which it may be possible to calculate 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 a given 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 over 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 limited to the value actually added to that element outside the country of importation.

First column	Second column
Reference to provisions of Title I	Notes
Article 8 (1) (c)	The royalties and licence fees referred to in Article 8 (1) (c) may include, among other things, payments in respect to patents, trademarks and copyrights.
Article 8 (2)	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 3. 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 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 cannot 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.

*ANNEX II***Use of generally accepted accounting principles**

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 general application as well as detailed practices and procedures.
 2. For the purposes of the application of this Regulation, the customs administration concerned 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 6 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 7 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 for in Article 8 (1) (b) (ii) 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.
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COMMISSION REGULATION (EEC) No 1495/80

of 11 June 1980

implementing certain provisions of Articles 1, 3 and 8 of Council Regulation (EEC)
No 1224/80 on the valuation of goods for customs purposes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes ⁽¹⁾, and in particular Article 19 (1) (b) thereof,

Whereas it is necessary to ensure uniform application of the provisions of Regulation (EEC) No 1224/80 and to this end to adopt implementing provisions;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Customs Valuation Committee,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of Article 1 (2) (h) of Regulation (EEC) No 1224/80, persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another:

- husband and wife,
- parent and child,
- brothers and sisters (whether by whole or half blood),
- grandparent and grandchild,
- uncle or aunt and nephew or niece,
- parent-in-law and son-in-law or daughter-in-law,
- brothers-in-law and sisters-in-law.

Article 2

1. For purposes of determining customs value under the provisions of Article 3 of Regulation (EEC) No 1224/80 of goods in regard to which the price has not actually been paid at the material time for valuation, the price payable for settlement at the said time shall as a general rule be taken as the basis for customs value.

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

2. The Commission and the Member States shall consult within the Customs Valuation Committee concerning the application of paragraph 1.

Article 3

Provided that they are distinguished from the price actually paid or payable, the following shall not be included in the customs value determined under Article 3 of Regulation (EEC) No 1224/80:

- (a) a charge for the right to reproduce the imported goods in the Community;
- (b) a buying commission;
- (c) interest payable under a financing arrangement relating to the purchase of the imported goods.

Article 4

Where goods declared for free circulation in the customs territory of the Community are part of a larger quantity of the same goods purchased in one transaction, the price actually paid or payable for the purposes of Article 3 (1) of Regulation (EEC) No 1224/80 shall be that price represented by the proportion of the total price which the quantity so declared bears to the total quantity purchased.

Article 5

Where the price actually paid or payable for the purposes of Article 3 (1) of Regulation (EEC) No 1224/80 includes an amount in respect of any internal tax applicable within the country of origin or export in respect of the goods in question, the said amount shall not be incorporated in the customs value provided that it can be demonstrated to the satisfaction of the customs authorities concerned that the goods in question have been or will be relieved therefrom for the benefit of the buyer.

Article 6

For the purposes of Article 3 (1) of Regulation (EEC) No 1224/80, the fact that the goods are declared for free circulation in the Community shall be regarded as

adequate indication that they were sold for export to the customs territory of the Community.

Article 7

Where, in applying Article 3 (1) (b) of Regulation (EEC) No 1224/80, it is established that the sale or price of imported goods is subject to a condition or consideration the value of which can be determined with respect to the goods being valued, such value shall be regarded as an indirect payment by the buyer to the seller and part of the price actually paid or payable provided that the condition or consideration does not relate to either:

- (a) an activity to which Article 3 (3) (b) of the said Regulation applies; or
- (b) a factor in respect to which an addition is to be made to the price actually paid or payable under the provisions of Article 8 of the said Regulation.

Article 8

1. For the purposes of Article 3 (3) (b) of Regulation (EEC) No 1224/80, the term 'marketing activities' means all activities relating to advertising and promoting the sale of the goods in question and all activities relating to warranties or guarantees in respect of them.

2. Such activities undertaken by the buyer shall be regarded as having been undertaken on his own account

even if they are performed in pursuance of an obligation on the buyer following an agreement with the seller.

Article 9

Where containers referred to in Article 8 (1) (a) (ii) of Regulation (EEC) No 1224/80 are to be the subject of repeated importations, their cost shall, at the request of the declarant, be apportioned, as appropriate, in accordance with generally accepted accounting principles.

Article 10

For the purposes of Article 8 (1) (b) (iv) of Regulation (EEC) No 1224/80, the cost of research and preliminary design sketches is not to be included in the customs value.

Article 11

In applying Article 8 (1) (c) of Regulation (EEC) No 1224/80, the country of residence of the recipient of the payment shall not be a material consideration.

Article 12

This Regulation shall enter into force on 1 July 1980.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 1980.

For the Commission
Étienne DAVIGNON
Member of the Commission

COMMISSION REGULATION (EEC) No 1496/80

of 11 June 1980

on the declaration of particulars relating to customs value and on documents to be furnished

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes ⁽¹⁾, and in particular Article 16 thereof,

Whereas Article 16 of Regulation (EEC) No 1224/80 provides that the particulars and documents to be furnished to the customs authorities for the purposes of the application of that Regulation shall where necessary be determined in accordance with the procedure laid down in Article 19 thereof;

Whereas it is necessary to ensure that importers are treated alike as regards particulars to be declared and as regards documents to be furnished;

Whereas the particulars to be furnished in the specimen form shown in the Annex will be sufficient in most cases to indicate the terms of the transaction; whereas, however, more detailed information may be necessary, in particular where customs value is to be determined on a basis other than the transaction value referred to in Article 3 of Regulation (EEC) No 1224/80;

Whereas it is necessary in certain cases to provide for exemptions and reliefs concerning the declaration of particulars relating to customs value; whereas, in particular, it may be unnecessary to require that such particulars are furnished where the value of the imported goods is below a certain limit;

Whereas it is desirable for the sake of simplicity to express in national currencies and in round figures the limit of value fixed by this Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Customs Valuation Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the purposes of the application of Regulation (EEC) No 1224/80, a declaration of particulars relating to customs value in a form corresponding to the specimen (D.V.1) in the Annex hereto shall accompany

the entry form for release for free circulation made in respect of the goods in question.

2. It shall be a particular requirement that the declaration of particulars relating to customs value prescribed in paragraph 1 shall be made only by a person (hereinafter referred to as 'the declarant') who has his residence or place of business in the customs territory of the Community and is in possession of the relevant facts.

3. Member States may waive the requirement of a declaration in the form specified in paragraph 1 where the customs value of the goods in question cannot be determined under the provisions of Article 3 of the said Regulation (EEC) No 1224/80. In such cases the declarant shall furnish or cause to be furnished to the customs administration concerned such other information as may be requested for the purposes of determining the customs value under another Article of the said Regulation; and such other information shall be supplied in such form and manner as may be prescribed by the customs administration concerned.

Article 2

1. Member States may waive the requirements of Article 1 (1), whether in whole or in part:

- (a) where the value of the imported goods in a consignment does not exceed, as appropriate, Bfrs 70 000, Dkr 12 000, DM 4 000, FF 10 000, Lit 2 000 000, Fl 4 500, £ 1 000, £Irl 1 000, provided that they do not constitute split or multiple consignments from the same consignor to the same consignee;
- (b) where the goods involved are not of a commercial nature; or
- (c) where the nature of the customs procedure to which the goods are subject does not require submission of the particulars in question.

2. In the case of continuing traffic in goods supplied by the same seller to the same buyer under the same commercial conditions, Member States may waive the requirement that all particulars under Article 1 (1) be furnished in support of each entry for release for free circulation, but shall require them whenever the circumstances change and at least once every three years.

3. Article 1 shall not apply in respect of goods for which a simplified procedure in accordance with Article 22 (4) and (5) of Regulation (EEC) No 1224/80 is established.

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

Article 3

Where computerized systems are used, Member States may authorize variations in the form of presentation of data required for the determination of customs value.

Article 4

1. The declarant shall furnish the customs authorities with a copy of the invoice on the basis of which the value of the imported goods is declared. Where the customs value is declared in writing this copy shall be retained by the customs authorities.

2. In the case of written declarations of the customs value, when the invoice for the imported goods is made out to a person established in a Member State other than

that in which the customs value is declared, the declarant shall furnish the customs authorities with two copies of his invoice. One of these copies shall be retained by the customs authorities; the other, bearing the stamp of the customs authorities and the customs serial number of the declaration shall be returned to the declarant for forwarding to the person to whom the invoice is made out.

3. Member States may extend the provisions of paragraph 2 to cases where the person to whom the invoice is made out is established in the Member State in which the customs value is declared.

Article 5

This Regulation shall enter into force on 1 July 1980.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 1980.

For the Commission
Étienne DAVIGNON
Member of the Commission

DECLARATION OF PARTICULARS RELATING TO CUSTOMS VALUE

D. V. 1

1 Buyer 	FOR OFFICIAL USE
2 Seller 	
3 Number and date of invoice 	
4 Number and date of contract 	
5 Terms of delivery (e.g. FOB New York) 	
6 Number and date of any previous Customs decision concerning boxes 7 to 9	
7 (a) Are the buyer and seller RELATED in the sense of Article 1(2) * of Regulation (EEC) No 1224/80? <i>If "NO", go to box 8</i> (b) Did the relationship INFLUENCE the price of the imported goods? (c) Does the transaction value of the imported goods CLOSELY APPROXIMATE to a value mentioned in Article 3(2)(b) of Regulation (EEC) No 1224/80? <i>If "YES", give details:</i> <i>Enter X where applicable</i> ☐ YES ☐ NO ☐ YES ☐ NO ☐ YES ☐ NO	
8 (a) Are there any RESTRICTIONS as to the disposition or use of the goods by the buyer, other than restrictions which – are imposed or required by law or by the public authorities in the Community, – limit the geographical area in which the goods may be resold, or – do not substantially affect the value of the goods? (b) Is the sale or price subject to some CONDITION or CONSIDERATION for which a value cannot be determined with respect to the goods being valued? <i>Specify the nature of the restrictions, conditions or considerations as appropriate.</i> <i>If the value of conditions or considerations can be determined, indicate the amount in box 11(b) overleaf.</i>	
9 (a) Are any ROYALTIES and LICENCE FEES related to the imported goods payable either directly or indirectly by the buyer as a condition of the sale? (b) Is the sale subject to an arrangement under which part of the proceeds of any subsequent RESALE, DISPOSAL or USE accrues directly or indirectly to the seller? <i>If "YES" to either of these questions, specify conditions and, if possible, indicate the amounts in boxes 15 and 16 overleaf:</i>	

* PERSONS SHALL BE DEEMED TO BE RELATED ONLY IF:

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognised partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

10 I, the undersigned, declare that all particulars given in this document are true and complete.

Place:

Date:

Signature:

Declarant:

		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) overleaf. (rate of exchange)			
	12 Total A in NATIONAL CURRENCY			
B. ADDITIONS: Costs in NATIONAL CURRENCY NOT 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: <i>The values shown represent an apportionment where appropriate</i>			
	(a) materials, components, parts and similar items incorporated in the imported goods			
	(b) tools, dies, moulds and similar items used in the production of the imported goods			
	(c) materials consumed in the production of the imported goods			
	(d) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Community and necessary for the production of the imported goods			
	15 Royalties and licence fees – see box 9(a) overleaf			
	16 Proceeds of any subsequent resale, disposal or use accruing to the seller – see box 9(b) overleaf			
	17 Costs of delivery to (place of introduction)			
	(a) transport			
	(b) loading and handling charges			
(c) insurance				
18 Total B				
C. DEDUCTIONS: Costs in NATIONAL CURRENCY INCLUDED in A above *	19 Costs of transport after importation			
	20 Charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation			
	21 Other charges (specify)			
	22 Customs duties and taxes payable in the Community by reason of the importation or sale of the goods			
	23 Total C			
	24 VALUE DECLARED (A + B – C)			

* 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