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## **1 ARTICLE 8**

### **1.1 Text of Article 8**

#### **Article 8**

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

- (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
  - (i) commissions and brokerage, except buying commissions;
  - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question;
  - (iii) the cost of packing whether for labour or materials;
- (b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable<sup>1</sup>:
  - (i) materials, components, parts and similar items incorporated in the imported goods;
  - (ii) tools, dies, moulds and similar items used in the production of the imported goods;
  - (iii) materials consumed in the production of the imported goods;
  - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;
- (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.

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

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

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<sup>1</sup> See [G/PSI/IE/R/2](#).

- (b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and
  - (c) the cost of insurance.
3. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.
4. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

## 1.2 Text of interpretative note to Article 8

### **Note to Article 8**

#### *Paragraph 1(a)(i)*

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(b)(ii)*

1. There are two factors involved in the apportionment of the elements specified in paragraph 1(b)(ii) of Article 8 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 the importer 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 the importer, 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 downward to reflect its use in order to arrive at the value of the element.

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, the importer 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 the producer 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 units, 4,000 units or 10,000 units.

#### *Paragraph 1(b)(iv)*

1. Additions for the elements specified in paragraph 1(b)(iv) of Article 8 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.

*Paragraph 1(c)*

1. The royalties and licence fees referred to in paragraph 1(c) of Article 8 may include, among other things, payments in respect to patents, trade marks and copyrights. However, the charges for the right to reproduce the imported goods in the country of importation shall not be added to the price actually paid or payable for the imported goods in determining the customs value.
2. Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the country of importation of the imported goods.

*Paragraph 3*

Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of Article 8, the transaction value cannot be determined under the provisions of Article 1. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a litre of a particular product 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.

### 1.3 Treatment of interest charges in the customs value of imported goods

1. At its meeting of 12 May 1995, the Committee on Customs Valuation adopted the decision of the Tokyo Round Committee on Customs Valuation relating to the treatment of interest charges in the customs value of imported goods.<sup>2</sup>

### 1.4 Article 8.1(b)(iv)

2. At its meeting of 12 May 1995, the Committee on Customs Valuation adopted the decision of the Tokyo Round Committee on Customs Valuation relating to the interpretation of the term "undertaken" used in Article 8.1(b)(iv).<sup>3</sup>

3. At the same meeting, the Committee on Customs Valuation adopted the decision of the Tokyo Round Committee on Customs Valuation relating to the linguistic consistency of the item "development" in Article 8.1(b)(iv).<sup>4</sup>

4. In 2014 the Director General initiated a procedure to rectify the authentic Spanish and English versions of Article 8.1(b)(iv).<sup>5</sup>

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<sup>2</sup> [G/VAL/M/1](#), paras. 66-67; see also [G/VAL/W/1](#), Section A.3. The text of the decision can be found in [G/VAL/5](#), Section A.3. Pursuant to this Decision, Members shall notify the Committee of Customs Valuation the date from which they will apply the Decision. The WTO Secretariat maintains a report listing the notifications received from Members (available in document [G/VAL/W/5/Rev.23](#); see also [G/VAL/M/69](#), Section 3.1).

<sup>3</sup> [G/VAL/M/1](#), paras. 66-67; see also [G/VAL/W/1](#), Section A.1.

The text of the decision can be found in [G/VAL/5](#), Section A.1.

<sup>4</sup> [G/VAL/M/1](#), paras. 66-67; see also [G/VAL/W/1](#), Section A.2. The text of the decision can be found in [G/VAL/5](#), Section A.2.

<sup>5</sup> [WT/Let/980](#), [WT/Let/986](#), [WT/Let/1126](#) and [WT/Let/1157](#). See also [G/VAL/W/240](#), [G/VAL/M/59](#) and [G/VAL/M/61](#).