

ACCESSION OF UKRAINE

Communication from Ukraine

The following information has been received from the Governmental Commission on Ukraine's Accession to GATT/WTO in answer to Question No.3 of the Consolidated List of Questions and is available for consultations at the Secretariat (Accession Division, Room 1126):

- Resolution of the Cabinet of Ministers of Ukraine "On Adopting the Procedure for Determining Customs Value of Goods and other Items Crossing the Customs Border of Ukraine", No.1598, of October 5, 1998.

Resolution of the Cabinet of Ministers of Ukraine

On Adopting the Procedure for Determining Customs Value of Goods and other Items Crossing the Customs Border of Ukraine

No.1598

October 5, 1998

With the purpose of preventing violation of the customs legislation when determining the customs value of goods and other items crossing the customs border of Ukraine the Cabinet of Ministers of Ukraine RESOLVES:

To adopt the procedure for determination of the customs value of goods and other items crossing the customs border of Ukraine (attached).

Adopted by the Resolution of the Cabinet of Ministers of Ukraine of October 5, 1998
No.1598

The Procedure for Determining the Customs Value of Goods and other Items Crossing the
Customs Border of Ukraine

1. The customs value of goods and other items crossing the customs border of Ukraine (hereinafter referred to as goods) shall be determined according to this Procedure.
2. If the documents confirming prices are submitted to the State Customs Service of Ukraine (invoices, proforma invoice), and information contained in these documents is considered reliable, the customs value of goods shall be determined based on the submitted documents.

The determination of the customs value shall include the price of goods indicated in the invoice (proforma invoice) and the actual expenses, if they are not included into the invoice (proforma invoice) depending on the terms and conditions of supply of these goods according to INCOTERMS Rules (1990 edition) of:

- a) loading, unloading, transferring, insurance and transportation to the point of crossing the customs border of Ukraine;
- b) commissions and brokerage fees;
- c) payments for utilizing intellectual property objects related to the goods which are payable by the importer (exporter) directly or indirectly as a condition of importing (exporting).

3. If it is impossible to determine the customs value of goods based on the submitted documents, the customs value shall be determined based on the price of similar goods for the customs clearance was performed earlier taking into account the following requirements:

- a) The goods shall be considered similar if they have the same properties as the goods subject to valuation including:

purpose and properties of the goods;

quality, the same trade mark and reputation at the market;

country of origin;

producer.

- b) insignificant differences in external design cannot be a ground for refusal to consider goods as similar if according to other properties such goods meet the requirements of this paragraph.

In case of the same trade mark, goods produced by different manufacturers may be considered similar if neither person declaring goods nor the Customs Service have information about similar goods produced by the manufacturer as the goods subject to valuation;

- c) If similar goods imported in a different quantity or under different terms and conditions according to INCOTERMS rules (1990 edition) than the goods requiring customs value, respective adjustments of the price shall be made taking into account these differences.

4. If it is impossible to determine customs value of goods based on the submitted documents and if there is no information about the import of similar goods, customs value shall be determined based on the price of identical goods which cleared customs earlier taking into account following requirements:

- a) not identical goods which have similar properties and composed of similar components enabling them to be utilized for the same purposes as goods subject to valuation and to be commercially interchangeable shall be considered similar.

To determine similarity of goods the following shall be taken into account:

purpose and properties;

quality, availability of trade mark and market reputation;

- b) if similar goods imported in a different quantity or under different terms and conditions of supply according to INCOTERMS Rules (1990 edition) than the goods requiring customs value, appropriate adjustments of the price shall be made taking into account these differences.

5. If the customs value of goods is determined in accordance with requirements of the paragraph 2 is smaller than the minimum customs value (if it is provided by the legislation), then minimum customs value shall be used to collect the established taxes and fees.

6. The customs value declared by the person and information regarding its determination shall be based upon reliable and documentary confirmed information. If required, confirmation of reliability of the declared customs value may be based on the following documents:

invoices or proforma invoices;

specifications, bills of lading, consignment notes;

licenses;

contract registration cards;

certificates of origin;

banking documents on payment under the contract which shall contain all required banking details to identify them with supply subject to customs registration (copy of the payment instruction certified by the bank upon fulfillment of the operation and statement (copy) of the current account of the organization certified by the head and chief accountant of this organization);

copy of the export customs declaration of the country of departure;

supply contracts (agreements);

mutual activity contracts;

contracts with third parties connected with supply contract (agreement);

payment invoices to the third persons in favour of seller;

licenses or copyright agreements;

contracts of agency, commission, agency and broker's agreements;

invoices for commissions and broker's services related to the goods which customs value shall be determined;

orders for supply;

transportation and insurance contracts;

price lists of the producer and seller of goods;

appropriate accounting documents;

calculation of the firm producing goods (if firm agrees to submit it to the Ukrainian buyer);

other documents that may be used to confirm customs value of goods declared in the customs declaration.

7. If there is no reliable information the Customs Service has the right to utilize information regarding prices contained in their data base, catalogues of the trade firms and other reference books including information from organizations which have conducted respective examinations. These data shall be utilized only as reference information for preliminary comparison with declared for customs registration price of goods. In every definite case customs value shall be corrected taking into account technical, functional and

quality properties of goods, contract terms and conditions, seasonal fluctuations of prices, transportation and insurance expenses, etc.

Summaries of the organizations conducting examination on determining the value of goods shall be utilized only as reference documents. Responsibility for the decision on customs value of goods shall be borne by the official of the customs service body which is competent to determine this value.

8. When determining customs value of exported goods subject to quotas or licensing or contracts registration, decisive shall be the price of goods indicated in the license or contract registration card (if supply terms and conditions for these goods correspond to the terms and conditions according to which customs value is determined).

When establishing indicative prices for exported goods and regarding which foreign economic contracts are subject to registration or provide for receiving license in the Ministry of Foreign Economic Relations and Trade correspondence of prices for the indicated goods to the indicative ones shall be determined by the Ministry of Foreign Economic Relations and Trade. Price of goods shall be indicated in the contract registration card or license, and the exporter shall not additionally substantiate it.

When determining indicative prices for goods regarding which foreign economic contracts are not subject to registration or do not require licensing by the Ministry of Foreign Economic Relations and Trade, prices for the indicated goods shall correspond to the indicative prices established at the moment of carrying out foreign trade operation. If the contract price differs from the indicative one, conformation letter granted by the Ministry of Foreign Economic Relations and Trade shall be submitted.

9. Information submitted to the Customs Service on the understanding that it is a commercial secret or as confidential may only be utilized for customs clearance purposes and may not be disclosed. It may not be used by the Customs Service officials for their own purposes, to be disclosed to third persons (including other state bodies) without the special permission of the person submitting such information (except cases provided by the legislation).