

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/81/Add.3

12 October 1953

Limited Distribution

METHODS OF VALUATION FOR CUSTOMS PURPOSES

Further Reports received from the Contracting Parties

Each contracting party was asked, in document L/81, to submit by 1 June 1953 a report on the steps taken to conform to Article VII of the General Agreement. The reports received were distributed in L/81/Add.1 and Add.2. The supplementary information received since the publication of these documents is reproduced herewith:

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GREECE

(Translation)

Document L/81/Add.1 (page 35) indicates the provisions of Greek legislation which serve as a basis for the valuation for customs purposes of goods, and the procedure utilized to convert the value of the goods into drachmae, when that value is expressed in foreign currency.

The Greek delegation communicate that under Decree-Law sub. No. 2541/1953, published recently, Greece has proceeded - in accordance with the Convention on the Valuation of Goods for Customs Purposes, signed in Brussels on 9 January 1951 - to replace Article 3 of the Decree-Law of 25 July 1920 relating to the Code of laws on the customs tariff, and of Article 7 of Act sub. No. 1805/1952.

The provisions of the new Act relating to valuation for customs purposes are consistent with the provisions of Appendix I of the above Convention and the interpretative notes of Appendix II of the same Convention.

We give below the relevant text of this recent Act.

Article V

1. The valuation for customs purposes of goods imported from abroad is the normal value of goods, i.e. the value which can reputedly be obtained for these goods as indicated below in terms of time and place, by the sale carried out in fully competitive conditions between an independent purchaser and seller.
2. The normal price of imported goods is determined on the following basis:
 - (a) the time considered is the day of reception of the goods and enjoyment of the same;
 - (b) the goods are considered as having been handed over to the purchaser at the place of introduction into the customs territory;
 - (c) the seller is considered as having assumed the cost of transportation of the goods, and all other costs pertaining to the sale and delivery of the goods at the place where the goods entered the customs territory, and to have included them in the price;
 - (d) customs duties, fees and taxes of all kinds payable on the Greek customs territory, payment for which the purchaser is liable, are not included in the price.

3. Sale carried out under fully competitive conditions between an independent purchaser and seller is a sale for which:

- (a) payment of the price of the goods represents the only actual contribution of the purchaser;
- (b) the price fixed is not influenced by commercial, financial or other relations, under treaties or not, which may possibly exist, exclusive of relations created by the sale between the seller or physical person or legal entity associated with the seller, on the one hand, and the purchaser or physical person or legal entity associated with the purchaser, on the other;
- (c) no proportion of the product of the sale, or of subsequent re-sale or utilization of the goods shall revert either directly or indirectly to the seller or to any other physical person or legal entity associated with the seller.

Two persons are considered business partners if one of them possesses any interest in the business of the other, or if they possess together a common interest in a business, or if a third party possesses an interest in the business of either of them, whether the interests be direct or indirect.

4. When the goods to be assessed:

- (a) are manufactured according to a patented process or are made according to a copyright design or model;
- (b) either bear a foreign trade mark or are imported for re-sale under such a mark, the normal price is fixed on the basis that that price includes the value of the right to utilize the patent, design or model, on the trade mark relating to the said goods.

5. An invoice shall be appended to each bill of lading; the customs authority is entitled, if it so decides, to relinquish requiring the production of that invoice for articles sent by post, or carried by travellers, or for articles of negligible value or presents.

If the goods are subject to ad valorem customs duties, the invoice may be certified by the Greek diplomatic authority or by the consular authority. In the case of agreements concluded on a reciprocity basis, the above attestation may be replaced by a visa supplied by agencies which are approved by the Greek Government, or the formality of attestation and of visa may be abandoned.

6. The customs service may require the production of the agreements, contracts and correspondence and any other element relating to the business operation.

7. The above-mentioned invoices and documents shall not prejudge the opinion of the customs service or of the agencies who are competent under the law to determine the value of imported goods or to settle differences relating to such valuation. The above value shall be established by means of every pertinent factor.

8. When the elements which are taken into account to fix the normal price are expressed in foreign currency, conversion takes place on the basis of the official exchange rate in force on the day stipulated under sub-paragraph (a) of paragraph 2 of this article.

9. The value fixed under the above conditions shall, if necessary, be rounded off to the hundred drachmae immediately below.

10. If goods are taxed ad valorem customs duties or if their importation is prohibited, the valuation for customs purposes shall be taken, in each case, to be ~~the value of those goods fixed according to the above provisions.~~

INDONESIA

Method of Valuation of Goods for Customs Purposes

A. Principle

Article 31 of the Regulation A, annexed to the "Customs Ordinance"¹ embodies the principle of valuation for customs purposes of goods to be imported.

The following is stipulated thereon in that article:

- Par.1 The value to be declared is the value mentioned in the current price-list issued quarterly by the Minister of Finance.
- Par.2 For goods not mentioned in the price-list the "value in entrepôt" is to be applied.

Pursuant to article 19 of above-mentioned "Customs Ordinance" before World War II a price-list for the purpose of calculation of the import duties was established every three months by the Minister of Finance after consultation with the existing Chambers of Commerce. Those prices concerned goods which were suitable for valuation to measure, weight and the volume of sale according to normal trade practices.

The purport of this price list was to expedite the procedure of importation and to simplify the valuation of the goods concerned.

Most of the goods involved were not or only slightly affected by the fluctuation of the world market prices. The last price-list thus issued covered the fourth quarter of 1941. No such price-list has been issued after World War II so far, and it is not likely this will be the case in the near future. At present, consequently, at the time of importation the "value in entrepôt" is to be declared for all goods.

¹ the "Customs Ordinance" dates back as far as 1882 and was revised in 1931.

B. Practical Application

What is the meaning of "value in entrepot"?

- I. Administrative Order by the Minister of Finance No. 1900 H of 7 May 1917 explains what is meant by "value in entrepot" and reads:
- "The meaning 'value in entrepot' is of a definite nature, which is to be confined only to the value, represented by the goods in entrepot on the day the merchandise enters the trade in the country, this is the day, upon which the import duty is due for payment." (In practice this is the day, on which the import declaration is presented to the collector of customs.)
- II. Further the "Instruction to the Customs Officials in Indonesia" says:
- "The value in entrepot' is the price of the goods recently¹⁾ quoted by the first seller abroad, resulting from a normal purchasing transaction²⁾, delivered free of charge³⁾ in the customs bonds here. Normally the 'value in entrepot' will therefore be the amount which is to be paid by the wholesale up to the moment of storing in customs bonds, i.e. the wholesale price at first hand in the country of origin, increased with the costs of packing, transport and insurance until stored in customs bonds".
- 1) recently.
- III. In Administrative Order by the Minister of Finance No. 1900 H of 7 May 1917 the word "recently" is defined as follows:
- "The price contained in the invoice can only be regarded as a basis for calculating the value in entrepot, if the invoice refers to a normal purchasing transaction and if the price is one for which the goods involved can be obtained recently in the country of origin."
- IV. Administrative Orders of the Inspector in Chief of the Customs and Excise of 29 October 1917, No. 4410 H and of 20 June 1925, No. A 15/1/25 explain further:
- "The price contained in the invoice can only be regarded as a basis for calculating the value in entrepot, if on the day of departure of the carrying vessel it is still the same as the market price of the respective goods on that day. If any change in the market price has taken place after the vessels departure from the country of origin, then such change is irrelevant. As a matter of fact on the assumption that the ship has had a normal journey and without undue delay in an intermediate port for reasons whatsoever,"

2) "resulting from a normal purchasing transaction"

V. The Administrative Order of the Minister of Finance of 4 September 1917, No. 3634 H explains on this phraseology:

"These stipulations are not meant to have any bearing on the execution of a concluded agreement, but are aimed only at defining as to of what nature the agreement - upon which the price at first hand abroad is based - should be, in order to be regarded as the value in entrepôt of the goods.

Considered in this light, the phraseology should be deemed only to say, that the agreed price in question must be the result of a real action of offering and bidding in the free market."

3) "free of charge"

VI. The Administrative Order of the Minister of Finance of 7 March 1922, No. 1416 A/H says hereabout:

"This amount includes, besides the price paid for the goods abroad, all costs involved on account of dispatch (transport) of the same, such as payment for freight, insurance, packing, etc."

In practice, all costs, normally made prior to importation in Indonesia, which an importer is required to pay in order to get the goods in customs bonds are to be added to the original purchasing price.

Such costs as clearing fees from customs bonds, import taxes, import duties, forwarding costs from customs bonds to warehouse, etc. are therefore excluded.

VII. Administrative Order of the Inspector in Chief of Customs and Excise of 4 September 1917, No. 3634 H stipulates further:

"Strictly spoken, the 'value in entrepôt' must be the amount representing the value of the goods on the day of importation. In the case of the actual value on that day being unknown, the customs will be satisfied to accept such as the price, for which similar goods can be obtained from the first hand abroad for delivery "free of charge" into customs bonds on a normal basis of buying and selling at the latest date prior to the day of importation."

VIII. Administrative Order of the Inspector in Chief of Customs and Excise of 7 October 1916, No. 4601 H contains the following comments:

Conversion rates of exchange

The conversion rates of exchange to be used for converting prices expressed in the currencies of foreign countries for customs valuation of goods not mentioned in the price-list shall be those quoted by the National Bank (Bank Indonesia) on the day of presenting the import declaration to the collector of customs. There will however only be acknowledged the real exchange rates for sight drafts, in other words: the local quotation of the exchange rates are only acceptable in the case of sight drafts actually being sold on that basis.

IX. Invoice value

In practice one can say, that if the goods imported are the subject to a bonafide sale the invoice value is accepted by the Indonesian Customs as the actual value.

Beside the above-mentioned under paragraph I up to IX, the Indonesian Customs, although such is not expressly stated in the regulations, adhere to the following standpoint:

- A. If the price of the goods is depending on the quantity purchased, the price to be considered should relate to quantities not less favourable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.
- B. The value for customs purposes of any imported product does not include the amount of any internal tax, applicable within the country of origin or export, from which the imported product has been exempted or has been or will be relieved by means of a refund.