

GENERAL AGREEMENT ON TARIFFS AND TRADE

VAL/8/Add.1
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Committee on Customs Valuation

DECISION ON THE VALUATION OF CARRIER MEDIA BEARING SOFTWARE FOR DATA PROCESSING EQUIPMENT

Adopted by the Committee on 24 September 1984

Addendum

Reproduced below is the statement made by the Chairman at the meeting of the Committee on 24 September 1984, as recorded in the minutes of that meeting (VAL/M/10, paragraph 5), outlining the "unique situation" of computer software and the background to the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment (VAL/8). This statement is referred to in paragraph 2 of the Decision. The present document is being issued because the Committee decided at its meeting of 9 November 1984 to derestrict both the Decision and the Chairman's statement.

Statement Made by the Chairman at the Meeting of the Committee on Customs Valuation of 24 September 1984 Prior to the Adoption of the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment

"In the case of imported carrier media bearing data or instructions for use in data processing equipment (software), it is essentially the carrier media itself, e.g. the tape or the magnetic disc, which is liable to duty under the customs tariff. However, the importer is, in fact, interested in using the instructions or data; the carrier medium is incidental. Indeed, if the technical facilities are available to the parties to the transaction, the software can be transmitted by wire or satellite, in which case the question of customs duties does not arise. In addition, the carrier medium is usually a temporary means of storing the instructions or data; in order to use it, the buyer has to transfer or reproduce the data or instructions into the memory or data base of his own system.

"Under the international customs valuation practices which were superseded by the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the Agreement), the value of the software was not, as a general rule, included when valuing the carrier medium. Following their adoption of the Agreement, those countries which followed the previous international practice have either changed their rules for valuing carrier media bearing computer software or have maintained their previous practice.

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"The proposed decision of the Committee on Customs Valuation on the valuation of carrier media bearing software for data processing equipment indicates that transaction value is the primary basis of valuation under the Agreement and that its application with regard to software recorded on carrier media for data processing equipment is fully consistent with the Agreement. It also would provide that given the "unique situation" regarding software just described and the fact that some Parties sought a different approach, it would also be consistent with the Agreement for those Parties which wish to do so to only take account of the cost or value of the carrier medium itself in determining the customs value of imported carrier media bearing data or instructions.

"In taking this decision on the valuation of carrier media bearing software for data processing equipment, it is understood that should any difficulties arise in the implementation and application of the decision, it would be useful for those difficulties to be considered by the Parties to the Agreement."