

GENERAL AGREEMENT ON TARIFFS AND TRADE

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EXPLANATORY NOTES ON PROCEDURES FOR FIXING AND MODIFYING TARIFF RATES

Addendum

In addition to the notes circulated in MTN/TAR/W/6, the following explanatory note has been received from the European Communities.

A. Nomenclature of the Community Customs Tariff (CCT)

1. The CCT is based on the Brussels Nomenclature, of which it has adopted not only the headings but also the rules of interpretation and the Section and Chapter notes.
2. In interpreting the CCT nomenclature, account must be taken of:
 - the general rules governing the classification of imports (see Annex I);
 - the special provisions governing customs treatment of goods for certain categories of ships, boats and other vessels, minor imports of a non-commercial nature, and packings imported full (see Annex II);
 - the notes and supplementary notes to the various Sections and Chapters of the CCT.

B. CCT rates

3. Goods imported into the Community are subject to one of the following methods of tariff treatment:

4. "Conventional" rates

These are rates bound within the GATT as they appear in lists LXII and LXII bis, as submitted by the Community following the negotiations carried out in accordance with Article XXIV:6 of the General Agreement. In principle, these rates are only

applicable to goods originating in countries which are contracting parties to GATT or with which the Community has concluded agreements based on the most-favoured-nation clause. At the present time, however, they are applied erga omnes.

5. "Autonomous" rates

These are rates fixed autonomously by the Council of Ministers of the Community.

Autonomous rates are applied in the following cases:

- in the absence of conventional rates;
- when it has been decided to reduce the conventional rate below the level at which it is bound within the GATT.

Autonomous rates also are applicable erga omnes, under the same conditions as conventional rates.

6. Variable rates (L) and variable components (vc)

Under the agricultural policy of the Community, as laid down by the Council of Ministers, certain goods are subject either to a variable levy, or to a fixed customs duty plus a variable levy.

Also, under the regulations issued by the Council of Ministers relating to trade in certain goods processed from agricultural products, certain goods are chargeable with a variable component.

7. Suspension of customs duties

The Council of Ministers may suspend temporarily the rates of customs duty applicable to imports of certain goods.

Such suspension, which also is applicable erga omnes, may be either:

- total (duty-free importation), or a reduction of the existing duty; or,
- for an indefinite period, in which case a fresh decision of the Council of Ministers is necessary before the suspended duty can be restored. Duties suspended for an indefinite period are included in the CCT; or,

- for a specific period, generally one year, but sometimes less. Suspensions for a specific period, which may be renewed by decision of the Council of Ministers, are not included in the CCT, but appear in separate regulations issued by the Council of Ministers; or,
- cover total imports of the product suspended, or be limited to a specific quota (Community tariff quota); or,
- cover a specific product, or all goods for use in the construction or repair of certain ships or aircraft, in which case certain measures of control over the destination of the goods may be applied.

8. Other tariff provisions

Under the General System of Preferences, the Council of Ministers may decide to apply such autonomous rates. It may also fix reduced rates in pursuance of agreements with certain countries.

C. Concordance between the denomination of CCT rates and that of the Tariff Rate Information File

9. The column "GATT rates" gives the conventional rates referred to in paragraph 4.

10. The column "statutory MFN rate" gives:

- either the conventional rate;
- or, in the absence of a conventional rate, or if the autonomous rate is lower than the conventional rate, the autonomous rate (see paragraphs 5 and 6).

11. The column "MFN rate applied" gives:

- either the suspended rate referred to in paragraph 7, if such a rate exists;
- or, in all other cases, the rates given in the column "statutory MFN rate".

12. The column "GSP rate" gives the rates fixed by the Council of Ministers under the General System of Preferences (see paragraph 8).

13. All the rates mentioned in the present tariff rate information file relate to the year 1974. No account has been taken of any modifications since 1 January 1975.

14. The fact that the Community is communicating this tariff information file on Chapters 1-99 of the BTN does not in any way prejudice the position which the Community has already adopted within the Group "Tariffs" as regards products falling within Chapters 1-24 of the BTN that negotiations in the Group do not cover agricultural products.

ANNEX I

SECTION I

GENERAL RULES

A. Rules for the interpretation of the nomenclature of the Common Customs Tariff

Interpretation of the nomenclature of the Common Customs Tariff shall be governed by the following principles:

1. The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions.
2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as imported, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), imported unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.
3. When for any reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:
 - (a) The heading which provides the most specific description shall be preferred to headings providing a more general description.
 - (b) Mixtures and composite goods which consist of different materials or are made up of different components and which cannot be classified by reference to 3 (a) shall be classified as if they consisted of the material or component which gives the goods their essential character, in so far as this criterion is applicable.
 - (c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which involves the highest rate of duty *and if this rate is the same for several headings, they shall be classified under that one of such headings which occurs latest in the nomenclature of the Tariff.*
4. Goods not falling within any heading of the Tariff shall be classified under the heading appropriate to the goods to which they are most akin.
5. *The above Rules shall also apply mutatis mutandis when determining the appropriate subheading within a heading.*

B. General rules concerning duties

1. The customs duties applicable to imported goods originating in countries which are Contracting Parties to the General Agreement on Tariffs and Trade or with which the European Economic Community has concluded agreements containing the most favoured nation tariff clause shall be the conventional duties (or duties resulting from conventions) shown in column 4 of the schedule of duties; until such time as a common trade policy enters into force in this respect, these "conventional" rates shall apply to goods other than those referred to above, imported from any third country.

Where no "conventional" duty is shown against a heading or subheading, or where the rate of the "conventional" duty is higher than that of the autonomous duty shown in column 3, duty shall be chargeable at the rate of the autonomous duty.

2. Paragraph 1 shall not apply where special autonomous customs duties are provided for in respect of goods originating in certain countries or where preferential customs duties are applicable in pursuance of association agreements.
3. Paragraphs 1 and 2 shall not preclude the Member States from applying customs duties other than those of the Common Customs Tariff where the application of such other duties is justified by Community Law.
4. The duties expressed as percentage rates in columns 3 and 4 are *ad valorem* duties.
5. The letter (L) appearing in column 3 opposite certain headings or subheadings denotes that the goods concerned are subject to levies.
6. The letters "vc" in columns 3 and 4 denote that the goods concerned are chargeable with a "variable component" determined under the regulations relating to trade in certain goods processed from agricultural products.

C. General rules applicable both to nomenclature and to duties

1. Unless provided otherwise, the provisions relating to value for customs purposes shall be applied to determine, in addition to the value for the assessment of *ad valorem* customs duties, the values by reference to which the scope of certain headings or subheadings is defined.
2. The dutiable weight, in the case of goods chargeable by weight, and the weights by reference to which the scope of certain headings or subheading is defined, shall be taken to be:
 - (a) in the case of a reference to "gross weight", the aggregate weight of the goods and of all packings thereof;
 - (b) in the case of a reference to "net weight" or simply to "weight" without qualification, the weight of the goods themselves without packing of any kind.

For the purposes of paragraphs (a) and (b) above, "packing" means any external or internal containers, holders, wrappings or supports, other than transport devices (e.g., transport containers), tarpaulins, tackle or ancillary transport equipment.

3. The unit of account (UA) by reference to which certain specific customs duties are expressed or the scope of certain headings or subheadings is defined has a value of 0.88867088 g of fine gold. The exchange rate to be used in converting the unit of account into Belgian francs, Danish kroner, Dutch guilders, French francs, German marks, Irish pounds, Italian lire, Luxembourg francs or pounds sterling shall be that corresponding to the par value communicated to and recognised by the International Monetary Fund in respect of these currencies.

ANNEX II

SECTION II

SPECIAL PROVISIONS

A. Goods for certain categories of ships, boats and other vessels

Customs duties are suspended in respect of goods for use in the construction, repair, maintenance or conversion of the ships, boats or other vessels listed in the following schedule, or for fitting out or equipping such ships, boats or other vessels.

Heading number	Description of goods
89.01	Ships, boats and other vessels not falling within headings Nos 89.02 to 89.05: A. Warships B. Other: I. Sea-going vessels
89.02	Vessels specially designed for towing (tugs) or pushing other vessels: A. Tugs B. Pusher craft: I. Sea-going
89.03	Light-vessels, fire-floats, dredgers of all kinds, floating cranes, and other vessels the navigability of which is subsidiary to their main function; floating docks: A. Sea-going vessels

The suspension shall be subject to such conditions as may be determined by the competent authorities with a view to Customs control of the use of such goods.

B. Minor importations of a non-commercial nature

1. Customs duty shall be charged at the flat rate of 10% *ad valorem* on goods sent in small consignments to private individuals, provided that such importations are not of a commercial nature. Such flat rate assessment shall not apply to goods falling within Chapter 24.
2. An importation shall be treated as not being of a commercial nature if:
 - it is occasional;
 - it consists solely of goods for personal or family use by the consignee, and of such kind or quantity that there is no indication that they are being imported for any commercial purpose; and
 - it consists of goods of an aggregate value not exceeding 60 UA.

3. The flat rate of customs duty of 10% *ad valorem* shall not apply to goods imported under the conditions set out in paragraph 1 if the addressee of the packet has, before they are charged with the said flat rate, requested that they be subjected to the customs duties appropriate to them. All the goods making up the consignment shall then be subjected to the duties which are appropriate to them.

C. Packings imported full

1. Packings, as defined in Section I, C., 2., imported full and declared for home use at the same time as the goods contained therein shall be:
 - (a) chargeable at the same rate of customs duty as the goods contained therein:
 - where such goods are subject to an *ad valorem* customs duty, or
 - where the packings are to be included in the dutiable weight of the goods contained therein;
 - (b) admitted free of customs duties:
 - where the goods contained therein are free of customs duty, or
 - where the goods contained therein are dutiable otherwise than by reference to weight or value, or
 - where the weight of the packings is not to be included in the dutiable weight of the goods contained therein;
 - (c) chargeable at the rates of customs duty appropriate to them, notwithstanding subparagraphs (a) and (b) above:
 - where they are not of a type normally used for the goods contained therein and have an independent and durable use other than as packings, or
 - where they have been used in order to evade payment of the customs duties applicable thereto in accordance with their tariff description.
2. Where packings covered by the provisions of paragraphs 1 (a) and (b) contain goods of several different Tariff descriptions, the weight and value of the packings shall, for the purpose of determining their dutiable weight or value, be apportioned between all the goods contained, in proportion to the weight or value of those goods.