

Council Regulation (EEC) No 2913/92 of 12 October 1992
establishing the Community Customs Code (repealed)

TITLE II

**FACTORS ON THE BASIS OF WHICH IMPORT DUTIES
OR EXPORT DUTIES AND THE OTHER MEASURES
PRESCRIBED IN RESPECT OF TRADE IN GOODS ARE APPLIED**

CHAPTER 1

**CUSTOMS TARIFF OF THE EUROPEAN COMMUNITIES
AND TARIFF CLASSIFICATION OF GOODS**

Article 20

- 1 Duties legally owed where a customs debt is incurred shall be based on the Customs Tariff of the European Communities.
- 2 The other measures prescribed by Community provisions governing specific fields relating to trade in goods shall, where appropriate, be applied according to the tariff classification of those goods.
- 3 The Customs Tariff of the European Communities shall comprise:
 - a the combined nomenclature of goods;
 - b any other nomenclature which is wholly or partly based on the combined nomenclature or which adds any subdivisions to it, and which is established by Community provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;
 - c the rates and other items of charge normally applicable to goods covered by the combined nomenclature as regards:
 - customs duties; and,
 - ^[F1] import charges laid down under the common agricultural policy or under the specific arrangements applicable to certain goods resulting from the processing of agricultural products.
 - d the preferential tariff measures contained in agreements which the Community has concluded with certain countries or groups of countries and which provide for the granting of preferential tariff treatment;
 - e preferential tariff measures adopted unilaterally by the Community in respect of certain countries, groups of countries or territories;
 - f autonomous suspensive measures providing for a reduction in or relief from import duties chargeable on certain goods;
 - g other tariff measures provided for by other Community legislation.
- 4 Without prejudice to the rules on flat-rate charges, the measures referred to in paragraph 3 (d), (e) and (f) shall apply at the declarant's request instead of those provided for in subparagraph (c) where the goods concerned fulfil the conditions laid down by those first-mentioned measures. An application may be made after the event provided that the relevant conditions are fulfilled.

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Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE II. (See end of Document for details)*

5 Where application of the measures referred to in paragraph 3 (d), (e) and (f) is restricted to a certain volume of imports, it shall cease:

- a in the case of tariff quotas, as soon as the stipulated limit on the volume of imports is reached;
- b in the case of tariff ceilings, by ruling of the Commission.

6 The tariff classification of goods shall be the determination, according to the rules in force, of:

- a the subheading of the combined nomenclature or the subheading of any other nomenclature referred to in paragraph 3 (b); or
- b the subheading of any other nomenclature which is wholly or partly based on the combined nomenclature or which adds any subdivisions to it, and which is established by Community provisions governing specific fields with a view to the application of measures other than tariff measures relating to trade in goods,

under which the aforesaid goods are to be classified.

Textual Amendments

- F1** Deleted by [Regulation \(EC\) No 82/97 of the European Parliament and of the Council of 19 December 1996](#).

Article 21

1 The favourable tariff treatment from which certain goods may benefit by reason of their nature or end-use shall be subject to conditions laid down in accordance with the committee procedure. Where an authorization is required Articles 86 and 87 shall apply.

2 For the purposes of paragraph 1, the expression ‘favourable tariff treatment’ means a reduction in or suspension of an import duty as referred to in Article 4 (10), even within the framework of a tariff quota.

CHAPTER 2

ORIGIN OF GOODS

Section 1

Non-preferential origin

Article 22

Articles 23 to 26 define the non-preferential origin of goods for the purposes of:

- (a) applying the Customs Tariff of the European Communities with the exception of the measures referred to in Article 20 (3) (d) and (e);
- (b) applying measures other than tariff measures established by Community provisions governing specific fields relating to trade in goods;
- (c) the preparation and issue of certificates of origin.

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Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE II. (See end of Document for details)

Article 23

1 Goods originating in a country shall be those wholly obtained or produced in that country.

2 The expression 'goods wholly obtained in a country' means:

- a mineral products extracted within that country;
- b vegetable products harvested therein;
- c live animals born and raised therein;
- d products derived from live animals raised therein;
- e products of hunting or fishing carried on therein;
- f products of sea-fishing and other products taken from the sea outside a country's territorial sea by vessels registered or recorded in the country concerned and flying the flag of that country;
- g goods obtained or produced on board factory ships from the products referred to in subparagraph (f) originating in that country, provided that such factory ships are registered or recorded in that country and fly its flag;
- h products taken from the seabed or subsoil beneath the seabed outside the territorial sea provided that that country has exclusive rights to exploit that seabed or subsoil;
- i waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are fit only for the recovery of raw materials;
- j goods which are produced therein exclusively from goods referred to in subparagraphs (a) to (i) or from their derivatives, at any stage of production.

3 For the purposes of paragraph 2 the expression 'country' covers that country's territorial sea.

Article 24

Goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.

Article 25

Any processing or working in respect of which it is established, or in respect of which the facts as ascertained justify the presumption, that its sole object was to circumvent the provisions applicable in the Community to goods from specific countries shall under no circumstances be deemed to confer on the goods thus produced the origin of the country where it is carried out within the meaning of Article 24.

Article 26

1 Customs legislation or other Community legislation governing specific fields may provide that a document must be produced as proof of the origin of goods.

2 Notwithstanding the production of that document, the customs authorities may, in the event of serious doubts, require any additional proof to ensure that the indication of origin does comply with the rules laid down by the relevant Community legislation.

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Section 2

Preferential origin of goods

Article 27

The rules on preferential origin shall lay down the conditions governing acquisition of origin which goods must fulfil in order to benefit from the measures referred to in Article 20(3)(d) or (e).

Those rules shall:

- (a) in the case of goods covered by the agreements referred to in Article 20 (3) (d), be determined in those agreements;
- (b) in the case of goods benefitting from the preferential tariff measures referred to in Article 20 (3) (e), be determined in accordance with the committee procedure.

CHAPTER 3

VALUE OF GOODS FOR CUSTOMS PURPOSES

Article 28

The provisions of this Chapter shall determine the customs value for the purposes of applying the Customs Tariff of the European Communities and non-tariff measures laid down by Community provisions governing specific fields relating to trade in goods.

Article 29

1 The customs value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to the customs territory of the Community, adjusted, where necessary, in accordance with Articles 32 and 33, provided:

- a that there are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which:
 - are imposed or required by a law or by the public authorities in the Community,
 - limit the geographical area in which the goods may be resold,

or

 - do not substantially affect the value of the goods;
- b that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- c that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with Article 32; and
- d that the buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes under paragraph 2.

2

- a In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted

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provided that the relationship did not influence the price. If, in the light of information provided by the declarant or otherwise, the customs authorities have grounds for considering that the relationship influenced the price, they shall communicate their grounds to the declarant and he shall be given a reasonable opportunity to respond. If the declarant so requests, the communication of the grounds shall be in writing.

- b In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with paragraph 1 wherever the declarant demonstrates that such value closely approximates to one of the following occurring at or about the same time:
 - (i) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to the Community;
 - (ii) the customs value of identical or similar goods, as determined under Article 30 (2) (c);
 - (iii) the customs value of identical or similar goods, as determined under Article 30 (2) (d).

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 32 and costs incurred by the seller in sales in which he and the buyer are not related and where such costs are not incurred by the seller in sales in which he and the buyer are related.

- c The tests set forth in subparagraph (b) are to be used at the initiative of the declarant and only for comparison purposes. Substitute values may not be established under the said subparagraph.

3

- a The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods and includes all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instrument and may be made directly or indirectly.
- b Activities, including marketing activities, undertaken by the buyer on his own account, other than those for which an adjustment is provided in Article 32, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

Article 30

1 Where the customs value cannot be determined under Article 29, it is to be determined by proceeding sequentially through subparagraphs (a), (b), (c) and (d) of paragraph 2 to the first subparagraph under which it can be determined, subject to the proviso that the order of application of subparagraphs (c) and (d) shall be reversed if the declarant so requests; it is only when such value cannot be determined under a particular subparagraph that the provisions of the next subparagraph in a sequence established by virtue of this paragraph can be applied.

2 The customs value as determined under this Article shall be:

- a the transaction value of identical goods sold for export to the Community and exported at or about the same time as the goods being valued;
- b the transaction value of similar goods sold for export to the Community and exported at or about the same time as the goods being valued;

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- c the value based on the unit price at which the imported goods for identical or similar imported goods are sold within the Community in the greatest aggregate quantity to persons not related to the sellers;
 - d the computed value, consisting of the sum of:
 - the cost or value of materials and fabrication or other processing employed in producing the imported goods,
 - an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the Community,
 - the cost or value of the items referred to in Article 32 (1) (e).
- 3 Any further conditions and rules for the application of paragraph 2 above shall be determined in accordance with the committee procedure.

Article 31

- 1 Where the customs value of imported goods cannot be determined under Articles 29 or 30, it shall be determined, on the basis of data available in the Community, using reasonable means consistent with the principles and general provisions of:
- the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade [^{F2}of 1994]
 - Article VII of the General Agreement on Tariffs and Trade [^{F2}of 1994]
 - the provisions of this chapter.
- 2 No customs value shall be determined under paragraph 1 on the basis of:
- a the selling price in the Community of goods produced in the Community;
 - b a system which provides for the acceptance for customs purposes of the higher of two alternative values;
 - c the price of goods on the domestic market of the country of exportation;
 - d the cost of production, other than computed values which have been determined for identical or similar goods in accordance with Article 30 (2) (d);
 - e prices for export to a country not forming part of the customs territory of the Community;
 - f minimum customs values; or
 - g arbitrary or fictitious values.

Textual Amendments

F2 Inserted by [Regulation \(EC\) No 82/97 of the European Parliament and of the Council of 19 December 1996](#).

Article 32

- 1 In determining the customs value under Article 29, 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,

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- (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:
 - (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 Community 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;
- e
 - (i) the cost of transport and insurance of the imported goods, and
 - (ii) loading and handling charges associated with the transport of the imported goods

to the place of introduction into the customs territory of the Community.

2 Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.

3 No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

4 In this Chapter, the term 'buying commissions' means fees paid by an importer to his agent for the service of representing him in the purchase of the goods being valued.

5 Notwithstanding paragraph 1 (c):

- a charges for the right to reproduce the imported goods in the Community shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and
- b 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 Community of the goods.

Article 33

1 Provided that they are shown separately from the price actually paid or payable, the following shall not be included in the customs value:

- a charges for the transport of goods after their arrival at the place of introduction into the customs territory of the Community;
- b charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation of imported goods such as industrial plant, machinery or equipment;

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- c charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and where required, the buyer can demonstrate that:
 - such goods are actually sold at the price declared as the price actually paid or payable, and
 - the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
- d charges for the right to reproduce imported goods in the Community;
- e buying commissions;
- f import duties or other charges payable in the Community by reason of the importation or sale of the goods.

Article 34

Specific rules may be laid down in accordance with the procedure of the committee to determine the customs value of carrier media for use in data processing equipment and bearing data or instructions.

Article 35

[^{F3}Where factors used to determine the customs value of goods are expressed in a currency other than that of the Member State where the valuation is made, the rate of exchange to be used shall be that duly published by the authorities competent in the matter.]

Such rate shall reflect as effectively as possible the current value of such currency in commercial transactions in terms of the currency of such Member State and shall apply during such period as may be determined in accordance with the procedure of the committee.

Where such a rate does not exist, the rate of exchange to be used shall be determined in accordance with the procedure of the committee.

Textual Amendments

- F3** Substituted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

Article 36

1 The provisions of this chapter shall be without prejudice to the specific provisions regarding the determination of the value for customs purposes of goods released for free circulation after being assigned a different customs-approved treatment or use.

2 By way of derogation from Articles 29, 30 and 31, the customs value of perishable goods usually delivered on consignment may, at the request of the declarant, be determined under simplified rules drawn up for the whole Community in accordance with the committee procedure.

Status:

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Changes to legislation:

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