

Regulation (EC) No 450/2008 of the European Parliament and
of the Council of 23 April 2008 laying down the Community
Customs Code (Modernised Customs Code) (repealed)

TITLE II

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

CHAPTER 1

Common Customs Tariff and tariff classification of goods

Article 33

Common Customs Tariff

1 Import and export duties due shall be based on the Common Customs Tariff.

Other measures prescribed by Community provisions governing specific fields relating to trade in goods shall, where appropriate, be applied in accordance with the tariff classification of those goods.

2 The Common Customs Tariff shall comprise the following:

- a the Combined Nomenclature of goods as laid down in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾;
- b any other nomenclature which is wholly or partly based on the Combined Nomenclature or which provides for further 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 conventional or normal autonomous customs duties applicable to goods covered by the Combined Nomenclature;
- d the preferential tariff measures contained in agreements which the Community has concluded with certain countries or territories outside the customs territory of the Community or groups of such countries or territories;
- e preferential tariff measures adopted unilaterally by the Community in respect of certain countries or territories outside the customs territory of the Community or groups of such countries or territories;
- f autonomous measures providing for a reduction in or exemption from customs duties on certain goods;
- g favourable tariff treatment specified for certain goods, by reason of their nature or end-use, in the framework of measures referred to under points (c) to (f) or (h);
- h other tariff measures provided for by agricultural or commercial or other Community legislation.

3 Where the goods concerned fulfil the conditions included in the measures laid down in points (d) to (g) of paragraph 2, the measures referred to in those provisions shall apply, at

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the request of the declarant, instead of those provided for in point (c) of that paragraph. Such application may be made retrospectively, provided that the time limits and conditions laid down in the relevant measure or in the Code are complied with.

4 Where application of the measures referred to in points (d) to (g) of paragraph 2, or the exemption from measures referred to in point (h) thereof, is restricted to a certain volume of imports or exports, such application or exemption shall, in the case of tariff quotas, cease as soon as the specified volume of imports or exports is reached.

In the case of tariff ceilings such application shall cease by virtue of a legal act of the Community.

5 The Commission shall, in accordance with the management procedure referred to in Article 184(3), adopt measures for the implementation of paragraphs 1 and 4 of this Article.

Article 34

Tariff classification of goods

1 For the application of the Common Customs Tariff, ‘tariff classification’ of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature under which those goods are to be classified.

2 For the application of non-tariff measures, ‘tariff classification’ of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature, or of any other nomenclature which is established by Community provisions and which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, under which those goods are to be classified.

3 The subheading or further subdivision determined in accordance with paragraphs 1 and 2 shall be used for the purpose of applying the measures linked to that subheading.

CHAPTER 2

Origin of goods

Section 1

Non-preferential origin

Article 35

Scope

Articles 36, 37 and 38 lay down rules for the determination of the non-preferential origin of goods for the purposes of applying the following:

- (a) the Common Customs Tariff with the exception of the measures referred to in Article 33(2)(d) and (e);
- (b) measures, other than tariff measures, established by Community provisions governing specific fields relating to trade in goods;

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- (c) other Community measures relating to the origin of goods.

Article 36

Acquisition of origin

1 Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory.

2 Goods the production of which involved more than one country or territory shall be deemed to originate in the country or territory where they underwent their last substantial transformation.

Article 37

Proof of origin

1 Where an origin has been indicated in the customs declaration pursuant to customs legislation, the customs authorities may require the declarant to prove the origin of the goods.

2 Where proof of origin of goods is provided pursuant to customs legislation or other Community legislation governing specific fields, the customs authorities may, in the event of reasonable doubt, require any additional evidence needed in order to ensure that the indication of origin does comply with the rules laid down by the relevant Community legislation.

3 A document proving origin may be issued in the Community where the exigencies of trade so require.

Article 38

Implementing measures

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of Articles 36 and 37.

Section 2

Preferential origin

Article 39

Preferential origin of goods

1 In order to benefit from the measures referred to in points (d) or (e) of Article 33(2) or from non-tariff preferential measures, goods shall comply with the rules on preferential origin referred to in paragraphs 2 to 5 of this Article.

2 In the case of goods benefiting from preferential measures contained in agreements which the Community has concluded with certain countries or territories outside the customs territory of the Community or with groups of such countries or territories, the rules on preferential origin shall be laid down in those agreements.

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3 In the case of goods benefiting from preferential measures adopted unilaterally by the Community in respect of certain countries or territories outside the customs territory of the Community or groups of such countries or territories, other than those referred to in paragraph 5, the Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down the rules on preferential origin.

4 In the case of goods benefiting from preferential measures applicable in trade between the customs territory of the Community and Ceuta and Melilla, as contained in Protocol 2 to the 1985 Act of Accession, the rules on preferential origin shall be adopted in accordance with Article 9 of that Protocol.

5 In the case of goods benefiting from preferential measures contained in preferential arrangements in favour of the overseas countries and territories associated with the Community, the rules on preferential origin shall be adopted in accordance with Article 187 of the Treaty.

6 The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures necessary for the implementation of the rules referred to in paragraphs 2 to 5 of this Article.

CHAPTER 3

Value of goods for customs purposes

Article 40

Scope

The customs value of goods, for the purposes of applying the Common Customs Tariff and non-tariff measures laid down by Community provisions governing specific fields relating to trade in goods, shall be determined in accordance with Articles 41 to 43.

Article 41

Method of customs valuation based on the transaction value

1 The primary basis for the customs value of 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 measures adopted pursuant to Article 43.

2 The price actually paid or payable is the total payment made or to be made by the buyer to the seller or by the buyer to a third party 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.

3 The transaction value shall apply provided that the following conditions are satisfied:

- a there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:
 - (i) restrictions imposed or required by a law or by the public authorities in the Community;
 - (ii) limitations of the geographical area in which the goods may be resold;

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- (iii) restrictions which do not substantially affect the customs value of the goods;
- b 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 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 measures adopted pursuant to Article 43;
- d the buyer and seller are not related or the relationship did not influence the price.

Article 42

Secondary methods of customs valuation

1 Where the customs value of goods cannot be determined under Article 41, it shall be determined by proceeding sequentially from point (a) to paragraph 2(d) of this Article, until the first point under which the customs value of goods can be determined.

The order of application of points (c) and (d) shall be reversed if the declarant so requests.

- 2 The customs value, pursuant to paragraph 1, shall be:
- a the transaction value of identical goods sold for export to the customs territory of 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 customs territory of the Community and exported at or about the same time as the goods being valued;
 - c the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of the Community in the greatest aggregate quantity to persons not related to the sellers;
 - d the computed value.

3 Where the customs value cannot be determined under paragraph 1, it shall be determined, on the basis of data available in the customs territory on the Community, using reasonable means consistent with the principles and general provisions of the following:

- a the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade;
- b Article VII of General Agreement on Tariffs and Trade;
- c this chapter.

Article 43

Implementing measures

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt the measures laying down the following:

- (a) the elements which, for the purposes of determining the customs value, must be added to the price actually paid or payable, or which may be excluded;
- (b) elements which are to be used to determine the computed value;
- (c) the method of determination of the customs value in specific cases, and with regard to goods for which a customs debt is incurred after the use of a special procedure;

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- (d) any further conditions, provisions and rules necessary for the application of Articles 41 and 42.

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- (1) [OJ L 256, 7.9.1987, p. 1](#). Regulation as last amended by Regulation (EC) No 275/2008 ([OJ L 85, 27.3.2008, p. 3](#)).

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