

Committee on Customs Valuation

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**NOTIFICATION UNDER ARTICLE 22 OF THE AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE
GENERAL AGREEMENT ON TARIFFS AND TRADE 1994**

FORMER YUGOSLAV REPUBLIC OF MACEDONIA

The following communication, dated 27 October 2004, is being circulated at the request of the delegation of the Former Yugoslav Republic of Macedonia.

In accordance with the Decision on notification and circulation of national legislation, taken by the WTO Committee on 12 May 1995, we have the honour to notify the Committee on Customs Valuation of the legislation of the Republic of Macedonia relevant to customs valuation¹. It consists of the following:

1. Customs Code - (Articles 28 to 39); and
2. Regulation on implementation of the provisions of the Customs Code concerning valuation of the goods for customs purposes.

**NOTIFICATION AU TITRE DE L'ARTICLE 22 DE L'ACCORD SUR LA
MISE EN ŒUVRE DE L'ARTICLE VII DE L'ACCORD GÉNÉRAL
SUR LES TARIFS DOUANIERS ET LE COMMERCE DE 1994**

EX-RÉPUBLIQUE YUGOSLAVE DE MACÉDOINE

La communication ci-après, datée du 27 octobre 2004, est distribuée à la demande de la délégation de l'ex-République yougoslave de Macédoine

Conformément à la Décision sur la notification et la distribution des législations nationales prise par le Comité de l'OMC le 12 mai 1995, nous avons l'honneur de notifier au Comité de l'évaluation en douane la législation de la République de Macédoine en matière d'évaluation en douane.¹ Elle comprend les textes ci-après:

1. Code des douanes (articles 28 à 39); et
2. Règlement sur la mise en œuvre des dispositions du Code des douanes relatives à la valeur en douane des marchandises.

**NOTIFICACIÓN DE CONFORMIDAD CON EL ARTÍCULO 22 DEL ACUERDO
RELATIVO A LA APLICACIÓN DEL ARTÍCULO VII DEL
ACUERDO GENERAL SOBRE ARANCELES
ADUANEROS Y COMERCIO DE 1994**

EX REPÚBLICA YUGOSLAVA DE MACEDONIA

La siguiente comunicación, de fecha 27 de octubre de 2004, se distribuye a petición de la delegación de la ex República Yugoslava de Macedonia.

De conformidad con la Decisión sobre notificación y distribución de la legislación nacional, adoptada por el Comité de la OMC el 12 de mayo de 1995, tenemos el honor de notificar al Comité de Valoración en Aduana la legislación de la República de Macedonia relativa a la valoración en aduana.¹ Esta comprende lo siguiente:

1. Código de Aduanas (artículo 28 a 39); y
2. Reglamento sobre la aplicación de las disposiciones del Código de Aduanas relativas a la valoración de las mercancías a efectos aduaneros.

¹ In English only./En anglais seulement./En inglés solamente.

1. CUSTOMS CODE - (Articles 28 to 39)²

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Amendments 26/1998, 63/1998, 86/1999, 25/2000, 109/2001, 31/2001, 4/02, 55/2002*

Article 28
(Application of customs value)

The provisions of Article 28 to 39 of the Code shall determine the customs value of goods for the purposes of applying the Customs Tariff, as well as other provisions governing trade related fields.

Article 29
(Definition of customs value -Transaction value method)

(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 Republic of Macedonia adjusted in accordance with the provisions of Article 36 and 37 of the Code, provided:

- a) that there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which:
 - are imposed or required by law or other provisions of the Republic of Macedonia;
 - 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 acquire directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Article 36 of the Code; and
- d) that the buyer and seller are not related, or where the buyer and the seller are related, that the transaction value is acceptable for customs purposes under the provisions of 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 ground for regarding the transaction value as unacceptable. In such case the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the declarant or otherwise, the Customs authority has grounds for considering that the relationship influenced the price, it shall communicate its grounds to the declarant and the declarant 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 the provisions of paragraph 1 whenever the declarant demonstrates that such value closely approximates to one of the following occurring at or about the same time :

- 1. the transaction value in sales to unrelated sellers and buyers of identical or similar goods for export to the Republic of Macedonia;

² Please note that the following is an unofficial English translation of the original Macedonian text and as such should be used for purpose of reference only.

2. the customs value of identical or similar goods as determined under the provisions of Article 33 of the Code;

3. the customs value of identical or similar goods as determined under the provisions of Article 34 of the Code;

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 36 of the Code and costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller 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 36 of the Code, 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

(Identical value method)

(1) a) If the customs value of the imported goods cannot be determined under the provisions of Article 29 of the Code, the customs value shall be the transaction value of identical goods sold for export to the Republic of Macedonia and exported at or about the same time as the goods being valued.

b) In applying this Article, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

(2) Where the costs and charges referred to in Article 36 (1) e) of the Code are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

- (3) If, in applying this Article, more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Article 31

(Similar value method)

- (1) a) If the customs value of the imported goods cannot be determined under the provisions of Articles 29 and 30 of the Code, the customs value shall be the transaction value of similar goods sold for export to the Republic of Macedonia and exported at or about the same time as the goods being valued.
- b) In applying this Article, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of similar goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.
- (2) Where the costs and charges referred to in Article 36 (1) e) of the Code are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.
- (3) If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Article 32

(Possibility of changing the order of application of Article 33 and 34)

If the customs value of the imported goods cannot be determined under the provisions of Articles 29, 30 and 31 of the Code, the customs value shall be determined under the provisions of Article 33 of the Code. If, the customs value cannot be determined under Article 33 of the Code, the customs value shall be determined under the provisions of Article 34 of the Code except that, at the request of the declarant, the order of application of Articles 33 and 34 of the Code shall be reversed.

Article 33

(Deductive value method)

- (1) a) If the imported goods or identical or similar imported goods are sold in the Republic of Macedonia in the condition as imported, the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following :
1. either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses (including the direct and indirect costs of marketing the goods in question) in connection with sales in the Republic of Macedonia of imported goods of the same class or kind;

2. the usual costs of transport and insurance and associated costs incurred within the Republic of Macedonia;
 3. where appropriate, the costs and charges referred to in Article 36 (1) e) of the Code; and
 4. the import duties and other charges payable in the Republic of Macedonia by reason of the importation or sale of the goods.
- b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of paragraph 1 (a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Republic of Macedonia in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of 90 days after such importation.
- (2) If neither the imported goods nor identical nor similar imported goods are sold in the Republic of Macedonia in the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the Republic of Macedonia who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1 a).

Article 34

(Computed value method)

- (1) The customs value of imported goods under the provisions of this Article shall be based on a computed value. Computed value shall consist of the sum of :
- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
 - (b) 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 Republic of Macedonia;
 - (c) the cost or value of all other expenses referred to in Article 36 (1) e) of the Code.
- (2) It shall not be required or compelled any person not resident on the territory of the Republic of Macedonia to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value under this Article may be verified in another country by the customs authority with the agreement of the producer and provided that customs authority give sufficient advance notice to the authorities of the country in question and the latter do not object to the investigation.

Article 35

(Fall-back value method)

- (1) Where the customs value of imported goods cannot be determined under Articles 29 to 34 of the Code, it shall be determined, on the basis of data available in the Republic of Macedonia, 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 of 1994
 - Article VII of the General Agreement on Tariffs and Trade of 1994
 - the provisions of Articles 28 to 38-h of this Code.
- (2) No customs value shall be determined under the provisions of this Article on the basis of :
- a) the selling price in the Republic of Macedonia of goods produced in the Republic of Macedonia;
 - 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 the provisions of Article 34 of the Code;
 - e) the price of the goods for export to a country other than Republic of Macedonia;
 - f) minimum customs values; or
 - g) arbitrary or fictitious values.
- (3) If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of this Article and the method used to determine such value.

Article 36

(Adjustment of price - elements included in the customs value)

- (1) In determining the customs value under Article 29 of the Code, 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:
 - 1. commissions and brokerage, except buying commissions,
 - 2. the cost of containers which are treated as being one, for customs purposes, with the goods in question,
 - 3. 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:
 - 1. materials, components, parts and similar items incorporated in the imported goods,
 - 2. tools, dies, moulds and similar items used in the production of the imported goods,
 - 3. materials consumed in the production of the imported goods,
 - 4. engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Republic of Macedonia 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) 1. the cost of transport and insurance of the imported goods to the place of introduction into the customs territory of the Republic of Macedonia, and
2. loading and handling charges associated with the transport of the imported goods to the place of introduction into the customs territory of the Republic of Macedonia.
- (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) 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 Republic of Macedonia 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 Republic of Macedonia of the goods.

Article 37

(Adjustment of price - elements excluded in the customs value)

- (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 Republic of Macedonia;
 - b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation of imported goods such as industrial plant, machinery or equipment;
 - 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 Republic of Macedonia;
 - e) buying commissions;
 - f) import duties or other charges payable in the Republic of Macedonia by reason of the importation or sale of the goods.

Article 38
(Reduction of prices)

All reductions in price agreed prior to the import of the goods and effectuated in agreed delay, shall not be included in customs value, in accordance to Article 29 of the Code.

Article 38-a
(Customs value of free consignments)

The customs value of goods imported free of charge shall be determined under the provisions of Article 30 to 35 of the Code.

Article 38-b
(Valuation of certain carrier media for use in ADP equipment)

- (1) Notwithstanding Articles 29 to 38-h of the Code, in determining the customs value of imported carrier media bearing data or instructions for use in data processing equipment, only the cost or value of the carrier medium itself shall be taken into account. The customs value of imported carrier media bearing data or instructions shall not, therefore, include the cost or value of the data or instructions, provided that such cost or value is distinguished from the cost or value of the carrier medium in question.
- (2) For the purposes of this Article:
 - a) the expression 'carrier medium' shall not be taken to include integrated circuits, semiconductors and similar devices or articles incorporating such circuits or devices;
 - b) the expression 'data or instructions' shall not be taken to include sound, cinematographic or video recordings.

Article 38-c
(Obligation of the importer of related to Article 36)

- (1) In the case of import of goods for which obligation under Article 36 (1) b), c) and d) of the Code is agreed, the importer is obliged to specify that in the customs declaration;
- (2) The importer is obliged to declare to the customs authority the resale, disposal or use of the imported goods, from which a payment of particular amount to the seller is arised in accordance with Article 36 (1) (d) of the Code, not later than 30 days following the payment.

Article 38-d
(Apportion of costs)

- (1) Where the consignment consists of more kinds of goods and more different rates of customs duty apply, buying costs for the goods expressed in total amount for the whole consignment, as well as the transport costs, insurance costs and delivery costs, shall be calculated by the proportion of the value of each kind of goods.
- (2) By derogation of paragraph (1), customs authority may, at request of the declarant, add the costs referred to in paragraph (1) concerning more kinds of goods being part of one consignment to the value of the goods on which the highest customs rate is applied.

Article 38-e

(Procedure in the case of doubt of the declared value)

- (1) The customs authority may, in course of conducting the customs procedure, ask the declarant all necessary documents and other evidence in order to determine the customs value in accordance to the Article 29 to 37 of the Code
- (2) No one provision of Article 28 to 38-h shall be construed as restricting or calling into question the rights of customs authority to satisfy themselves as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.
- (3) If the invoice is not presented of justified reasons, or customs authority has reasonable doubt that the value of the goods referred to the invoice does not correspond to the provisions for transaction value of the Code, the customs value shall be determined in accordance with Article 30 to 35 of the Code.
- (4) Upon written request, the importer shall have the right to an explanation in writing from the customs authority of the country of importation as to how the customs value of the importer's goods was determined.

Article 38-f

(Currency conversion)

Where the conversion of currency is necessary for the determination of the customs value, the rate of exchange to be used shall be that determined on the date which customs debt has incurred, in accordance to regulation governing foreign currency transactions.

Article 38-g

(Withdrawal of goods before determination of the customs value)

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of such customs value, the declarant shall nevertheless be able to withdraw them from customs, provided that, payment of a customs debt, in accordance to Article 172 of the Code, covering the ultimate payment of customs duties for which the goods may be liable, is ensured.

Article 38-h

(Exclusion of application of customs value)

The provisions of Article 28 to 38-g of the Code 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.

Article 39
(Regulation)

- (a) Regulation for applying provisions of Article 28 to 38-h of the Code shall be laid down by the Government of the Republic of Macedonia.

2. REGULATION ON IMPLEMENTATION OF THE PROVISIONS OF THE CUSTOMS CODE CONCERNING VALUATION OF THE GOODS FOR CUSTOMS PURPOSES³

Published in Official Journal of the Republic of Macedonia 60/2002

Article 1

- (1) In applying the provisions of Articles 28 to 38-h of the Customs Code and those of this Regulation, the provisions set out in Annex 1, being integral part of this Regulation, shall also apply.

The provisions as set out in the first column of Annex 1 shall be applied in the light of the interpretative note appearing in the second column.

- (2) If it is necessary to make reference to generally accepted accounting principles in determining the customs value, the provisions of Annex 2, being integral part of this Regulation, shall apply.

Article 2

- (1) For the purposes of this Regulation:

- a) 'The Agreement' means the Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade concluded in the framework of the multilateral trade negotiations of 1973 to 1979 and referred to in the first indent of Article 35 (1) of the Customs Code;
- b) 'produced goods' includes goods grown, manufactured and mined;
- c) 'identical goods' means goods produced in the same country which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical;
- d) 'similar goods' means goods produced in the same country which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;
- e) 'goods of the same class or kind' means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods.

- (2) 'Identical goods' and 'similar goods', as the case may be, do not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under Article 36 (1) b) 4. of the Customs Code because such elements were undertaken in the Republic of Macedonia.

Article 3

- (1) For the purposes of Articles 28 to 38-h of the Customs Code and of this Regulation, persons shall be deemed to be related only if:

- a) they are officers or directors of one another's businesses;

³ Please note that the following is an unofficial English translation of the original Macedonian text and as such should be used for purpose of reference only.

- b) they are legally recognized partners in business;
 - c) they are employer and employee;
 - d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them;
 - e) one of them directly or indirectly controls the other;
 - f) both of them are directly or indirectly controlled by a third person;
 - g) together they directly or indirectly control a third person; or
 - h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another:
 - husband and wife,
 - parent and child,
 - brother and sister (whether by whole or half blood),
 - grandparent and grandchild,
 - uncle or aunt and nephew or niece,
 - parent-in-law and son-in-law or daughter-in-law,
 - brother-in-law and sister-in-law.
- (2) Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria of paragraph 1.

Article 4

For the purposes of determining customs value under Article 29 of the Customs Code of goods in regard to which the price has not actually been paid at the material time for valuation for customs purposes, the price payable for settlement at the said time shall as a general rule be taken as the basis for customs value.

Article 5

- (1) Where goods declared for free circulation are part of a larger quantity of the same goods purchased in one transaction, the price actually paid or payable for the purposes of Article 29 (1) of the Customs Code shall be that price represented by the proportion of the total price which the quantity so declared bears to the total quantity purchased.
Apportioning the price actually paid or payable shall also apply in the case of the loss of part of a consignment or when the goods being valued have been damaged before entry into free circulation.
- (2) After release of the goods for free circulation, an adjustment made by the seller, to the benefit of the buyer, of the price actually paid or payable for the goods may be taken into consideration for the determination of the customs value in accordance with Article 29 of the Customs Code, if it is demonstrated to the satisfaction of the customs authority that:
- a) the goods were defective at the moment referred to by Article 62 (3) of the Customs Code;
 - b) the seller made the adjustment in performance of a warranty obligation provided for in the contract of sale, concluded before release for free circulation of the goods;
 - c) the defective nature of the goods has not already been taken into account in the relevant sales contract.

- (3) The price actually paid or payable for the goods, adjusted in accordance with paragraph 2, may be taken into account only if that adjustment was made within a period of 12 months following the date of acceptance of the declaration for entry to free circulation of the goods.

Article 6

Where the price actually paid or payable for the purposes of Article 29 (1) of the Customs Code includes an amount in respect of any internal tax applicable within the country of origin or export in respect of the goods in question, the said amount shall not be incorporated in the customs value provided that it can be demonstrated to the satisfaction of the customs authority concerned that the goods in question have been or will be relieved there from for the benefit of the buyer.

Article 7

- (1) For the purposes of Article 29 of the Customs Code, the fact that the goods which are the subject of a sale are declared for free circulation shall be regarded as adequate indication that they were sold for export to the customs territory of the Republic of Macedonia. In the case of successive sales before valuation, only the last sale, which led to the introduction of the goods into the customs territory of the Republic of Macedonia, or a sale taking place in the customs territory of the Republic of Macedonia before entry for free circulation of the goods shall constitute such indication.
- (2) Where goods are used in a third country between the time of sale and the time of entry into free circulation the customs value need not be the transaction value.
- (3) The buyer need satisfy no condition other than that of being a party to the contract of sale.

Article 8

Where, in applying Article 29 (1) b) of the Customs Code, it is established that the sale or price of imported goods is subject to a condition or consideration the value of which can be determined with respect to the goods being valued, such value shall be regarded as an indirect payment by the buyer to the seller and part of the price actually paid or payable provided that the condition or consideration does not relate to either:

- a) an activity to which Article 29 (3) b) of the Customs Code applies; or
- b) a factor in respect of which an addition is to be made to the price actually paid or payable under the provisions of Article 36 of the Customs Code.

Article 9

- (1) For the purposes of Article 29 (3) b) of the Customs Code, the term 'marketing activities' means all activities relating to advertising and promoting the sale of the goods in question and all activities relating to warranties or guarantees in respect of them.
- (2) Such activities undertaken by the buyer shall be regarded as having been undertaken on his own account even if they are performed in pursuance of an obligation on the buyer following an agreement with the seller.

Article 10

- (1) In applying Article 30 and 31 of the Customs Code, a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found for identical or similar goods produced by the same person as the goods being valued.
- (2) For the purposes of applying Article 30 of the Customs Code, the transaction value of identical imported goods means a customs value previously determined under provisions of Article 29 of the Customs Code, adjusted as provided for in Article 30 (1) b) and (2) of the Customs Code.
- (3) For the purposes of applying Article 31 of the Customs Code, the transaction value of similar imported goods means a customs value previously determined under Article 29 of the Customs Code, adjusted as provided for in Article 31 (1) b) and (2) of the Customs Code.

Article 11

- (1) In applying Article 33 of the Customs Code (*deductive value*), the unit price at which imported goods are sold in the greatest aggregate quantity is the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.
- (2) Any sale in the Republic of Macedonia to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in Article 33 (1) b) of the Customs Code should not be taken into account in establishing the unit price for the purposes of Article 33 of the Customs Code.
- (3) For the purposes of Article 33 (1) b) of the Customs Code, the 'earliest date' shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

Article 12

- (1) Customs value under provision of Article 34 of the Customs Code (computed value) as a general rule is determined on the basis of information readily available in the Republic of Macedonia.
- (2) Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the customs authority shall inform the declarant, if the latter so requests, of the source of such information, the data used and the calculations based on such data, subject to Article 34 of the Customs Code.
- (3) The cost or value of materials and fabrication referred to Article 34 (1) a) of the Customs Code shall include the cost of elements specified in Article 36 (1) a) 2. and 3. of the Customs Code and shall also include the value, duly apportioned, of any product or service specified in Article 36 (1) b) of the Customs Code which has been supplied directly or indirectly by the buyer, for use in connection with the production of the imported goods. The value of the elements specified in Article 36 (1) b) 4. of the Customs Code which are undertaken in the Republic of Macedonia shall be included only to the extent that such elements are charged to the producer.

- (4) The 'general expenses' referred to in the second indent of Article 34 (1) b) of the Customs Code, cover the direct and indirect costs of producing and selling the goods for export which are not included under the first indent of Article 34 (1) a) of the Customs Code.

Article 13

Where containers referred to in Article 36 (1) a) 2. of the Customs Code are to be the subject of repeated importations, their cost shall, at the request of the declarant, be apportioned, as appropriate, in accordance with generally accepted accounting principles.

Article 14

For the purposes of Article 36 (1) b) 4. of the Customs Code, the cost of research and preliminary design sketches is not to be included in the customs value.

Article 15

Article 37 (1) c) of the Customs Code shall apply *mutatis mutandis* where the customs value is determined by applying a method other than the transaction value.

Article 16

- (1) The customs authority may, at the request of the person concerned, authorize:
- by derogation from Article 36 (2) of the Customs Code, certain elements which are to be added to the price actually paid or payable, although not quantifiable at the time of incurrence of the customs debt, to be determined on the basis of appropriate and specific criteria;
 - by derogation from Article 37 of the Customs Code, certain charges which are not to be included in the customs value, in cases where the amounts relating to such elements are not shown separately at the time of incurrence of the customs debt, to be determined on the basis of appropriate and specific criteria.

In such cases, the declared customs value is not to be considered as provisional within the meaning of the second indent of Article 9 (1) of the Regulation on determining the cases and manners on approving the application of simplified procedures concerning customs declarations.

- (2) The authorization shall be granted under the following conditions:
- a) the carrying out of the procedures provided for by Article 13 of the Regulation on determining the cases and manners on approving the application of simplified procedures concerning customs declarations would, in the circumstances, represent disproportionate administrative costs;
 - b) recourse to an application of Articles 30 to 35 of the Customs Code appears to be inappropriate in the particular circumstances;
 - c) there are valid reasons for considering that the amount of import duties to be charged in the period covered by the authorization will not be lower than that which would be levied in the absence of an authorization;
 - d) competitive conditions amongst operators are not distorted.

Article 17

- (1) For the purposes of Article 36 (1) c) of the Customs Code, royalties and licence fees shall be taken to mean in particular payment for the use of rights relating:
 - to the manufacture of imported goods (in particular, patents, designs, models and manufacturing know-how), or
 - to the sale for exportation of imported goods (in particular, trade marks, registered designs), or
 - to the use or resale of imported goods (in particular, copyright, manufacturing processes inseparably embodied in the imported goods).
- (2) Without prejudice to Article 36 (1) b) of the Customs Code, when the customs value of imported goods is determined under the provisions of Article 29 of the Customs Code, a royalty or licence fee shall be added to the price actually paid or payable only when this payment:
 - is related to the goods being valued, and
 - constitutes a condition of sale of those goods.

Article 18

- (1) When the imported goods are only an ingredient or component of goods manufactured in the Republic of Macedonia, an adjustment to the price actually paid or payable for the imported goods shall only be made when the royalty or licence fee relates to those goods.
- (2) Where goods are imported in an unassembled state or only have to undergo minor processing before resale, such as diluting or packing, this shall not prevent a royalty or licence fee from being considered related to the imported goods.
- (3) If royalties or licence fees relate partly to the imported goods and partly to other ingredients or component parts added to the goods after their importation, or to post-importation activities or services, an appropriate apportionment shall be made only on the basis of objective and quantifiable data, in accordance with the interpretative note to Article 36 (2) of the Customs Code in Annex 1.

Article 19

A royalty or licence fee in respect of the right to use a trade mark is only to be added to the price actually paid or payable for the imported goods where:

- the royalty or licence fee refers to goods which are resold in the same state or which are subject only to minor processing after importation,
- the goods are marketed under the trade mark, affixed before or after importation, for which the royalty or licence fee is paid, and
- the buyer is not free to obtain such goods from other suppliers unrelated to the seller.

Article 20

When the buyer pays royalties or licence fees to a third party, the conditions provided for in Article 17 (2) shall not be considered as met unless the seller or a person related to him requires the buyer to make that payment.

Article 21

Where the method of calculation of the amount of a royalty or licence fee derives from the price of the imported goods, it may be assumed in the absence of evidence to the contrary that the payment of that royalty or licence fee is related to the goods to be valued. However, where the amount of a royalty or licence fee is calculated regardless of the price of the imported goods, the payment of that royalty or licence fee may nevertheless be related to the goods to be valued.

Article 22

In applying Article 36 (1) c) of the Customs Code, the country of residence of the recipient of the payment of the royalty or licence fee shall not be a material consideration.

Article 23

In applying Article 36 (1) a) 1. of the Customs Code the buying commissions shall not be added to the price actually paid or payable if they are paid by the buyer, apart from the payment of the goods.

Article 24

- (1) The buyer, may the goods mentioned in Article 36 (1) b) 1, 2. and 3. of the Customs Code deliver to the seller directly or indirectly. Those goods, except those mentioned in b) 2, later must be used and incorporated or consumed in production of the imported goods.
- (2) Goods mentioned in Article 36 (1) b) 1. of the Customs Code, supplied by the buyer can be supplied from any foreign country, including the country of the seller.
- (3) For the goods mentioned in Article 36 (1) b) 3. of the Customs Code shall be considered goods mentioned in Article 36 (1) b) 1. of the Customs Code, if they are not bought abroad, as well as consumed materials.

Article 25

For the purposes of Article 36 (1) e) and Article 37 (1) a) of the Customs Code, the place of introduction into the customs territory of the Republic of Macedonia shall be:

- a) for goods carried by rail, road or inland waterway - the place where the first customs office is situated;
- b) for goods carried by air transport - the place of the first destined airport;
- c) for goods carried by other means - the place where the land frontier of the customs territory of the Republic of Macedonia is crossed.

Article 26

In applying Article 36 (1) e) and 37 (1) a) of the Customs Code:

- a) where goods are carried by the same mode of transport to a point beyond the place of introduction into the customs territory of the Republic of Macedonia, transport costs shall be assessed in proportion to the distance covered outside and inside the customs territory of the Republic of Macedonia, unless evidence is produced to the customs authority to show the costs that would have been incurred under a general compulsory schedule of freight rates for the carriage of the goods to the place of introduction into the customs territory of the Republic of Macedonia;
- b) where goods are invoiced at a uniform free domicile price which corresponds to the price at the place of introduction into the customs territory of the Republic of Macedonia, transport

costs within the customs territory of Republic of Macedonia shall not be deducted from that price. However, such deduction shall be allowed if evidence is produced to the customs authority that the free-frontier price would be lower than the uniform free domicile price;

- c) where transport is free or provided by the buyer, transport costs to the place of introduction, calculated in accordance with the schedule of freight rates normally applied for the same modes of transport, shall be included in the customs value.

Article 27

- (1) All postal charges levied up to the place of destination in respect of goods sent by post shall be included in the customs value of these goods, with the exception of any supplementary postal charges levied in the Republic of Macedonia.
- (2) No adjustment to the declared value shall, however, be made in respect of such charges in determining the value of consignments of a non-commercial nature.
- (3) Paragraphs 1 and 2 are not applicable to goods carried by the express postal services. (known as EMS)

Article 28

- (1) For the purposes of Article 38-e of the Customs Code, when a customs declaration has been presented, and where the customs authority has reason to doubt the truth or accuracy of the particulars or of documents produced in support of this declaration, the customs authority may ask to be provided with further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, in accordance with the provisions of Article 29 of the Customs Code.
- (2) If, after receiving further information, or in the absence of a response, the customs authority still has reasonable doubts about the truth or accuracy of the declared value, it may be deemed that the customs value of the imported goods cannot be determined under the provisions of Article 29 of the Customs Code.
- (3) Before taking a final decision, the customs authority shall communicate to the importer, in writing if requested, its grounds for doubting the truth or accuracy of the particulars or documents produced and the importer shall be given a reasonable opportunity to respond.
- (4) When a final decision is made, the customs authority shall communicate to the importer in writing its decision and the grounds therefore.

Article 29

For all information which is by nature confidential or which is provided on a confidential basis for the purposes of customs valuation shall be treated as strictly confidential, provisions of Article 19 of the Customs Code shall apply.

Article 30

- (1) Where it is necessary to establish a customs value for the purposes of Articles 28 to 38-h of the Customs Code, a declaration of particulars relating to customs value (customs value declaration) shall accompany the customs declaration made in respect of the imported goods. The value declaration shall be drawn up on a form DCV (customs value declaration) corresponding to the specimen in Annex 3 being integral part of this Regulation.
- (2) DCV set is made of two sheets, the first one containing answers, listed on the sample, given to the questions concerning the establishing of the customs value, while the second one contains numerical details necessary to establish the customs value.

If one SAD set for importation covers goods classified under more than three different subheadings, DCV form is supplemented by one or more DCV-BIS forms corresponding to the specimen in Annex 4 being integral part of this Regulation, in order to allow all subheadings in the SAD for importation to be covered.

Each DCV and DCV-BIS form shall measure 210 x 297 mm; a tolerance of up to minus 5 mm or plus 8 mm in the length may be allowed. The form must be printed on self-copying paper not containing mechanical pulp and weighting not less than 40gr/m². The paper must be of sufficient strength so that details on one sheet of the forms shall not affect the validity on the other sheet and its strength shall be such that in normal use it does not easily tear or crease. DCV and DCV- BIS forms are printed in two copies. First copy of the DCV and DCV- BIS forms are retained by the customs authority attached to the relevant SAD, while the second copy after being authenticated by the customs authority is returned to the declarant.
- (3) The customs value declaration provided for in paragraph 1 shall be made only by a person established in the Republic of Macedonia and in possession of the relevant facts.
- (4) The customs authority may waive the requirement of a DCV on the form referred to in paragraph 1 where the customs value of the goods in question can not be determined under the provisions of Article 29 of the Customs Code. In such cases the person referred to in paragraph 3 shall furnish or cause to be furnished to the customs authority such other information as may be requested for the purposes of determining the customs value under another Article of the Customs Code. Such other information shall be supplied in such form and manner as may be prescribed by the customs authority.
- (5) The person referred to in paragraph 3 shall be responsible, without prejudice to the possible application of penal provisions, for the lodging with a customs office of a Customs Value Declaration required by paragraph 1 in respect of:
 - the accuracy and completeness of the particulars given in the customs value declaration,
 - the authenticity of the documents produced in support of these particulars given in the customs value declaration, and
 - the supply of any additional information or documents necessary to establish the customs value of the goods.

Article 31

- (1) Except where it is essential for the correct application of import duties, the customs authority shall waive the requirement of furnishing all or part of the customs value declaration provided for in Article 30 (1) in the following cases:
 - a) where the customs value of the imported goods in a consignment does not exceed 500 EUR, provided that they do not constitute split or multiple consignments from the same consignor to the same consignee; or

- b) where the importations involved are of a non-commercial nature; or
 - c) where the declaration of the particulars in question is not necessary for the application of the Customs Tariff or where the customs duties provided for in the Tariff are not chargeable pursuant to specific customs provisions.
- (2) In the case of continuing traffic in goods supplied by the same seller to the same buyer under the same commercial conditions, the customs authority may waive the requirement that all particulars under Article 31 (1) be furnished in support of each customs declaration, but shall require them whenever the circumstances change and at least once every three years.
- (3) A waiver granted under this Article may be withdrawn and the submission of a DCV may be required where it is found that a condition necessary to qualify for that waiver was not or is no longer met.

Article 32

Where computerized systems are used, or where the goods concerned are the subject of simplified customs declaration, the customs authority may authorize variations in the form of presentation of data required for the determination of customs value.

Article 33

- (1) The person referred to in Article 30 (3) shall furnish the customs authority with two copies of the invoice on the basis of which the value of the imported goods is declared. One of these copies shall be retained by the customs authority; the other, bearing the stamp of the office in question and the serial number of the customs declaration at the said customs office shall be returned to the declarant for forwarding to the person to whom the invoice is made out.
- (2) The person referred to in Article 30 (3) shall furnish the customs authority all relevant information of other payments done or to be done (i.e. invoice of transport costs, insurance documents, etc), and upon request of the customs authority other documents necessary to establish the customs value.

Article 34

With the publication of this Regulation the Regulation on the rules and procedures for customs valuation published in the Official gazette of the Republic of Macedonia 17/2000) is repealed.

Article 35

This Regulation shall enter into force the following day of its publication in the Official Journal of the Republic of Macedonia.

ANNEX I

(b) INTERPRETATIVE NOTES ON CUSTOMS VALUE

First column	Second column
Reference to provisions of the Customs Code	Notes
Article 29 (1)	The price actually paid or payable refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.
Article 29 (1) a), third indent	An example of such restriction would be the case where a seller requires a buyer of automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.
Article 29 (1) b)	<p>Some examples of this include:</p> <ul style="list-style-type: none"> (a) the seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities; (b) the price of the import goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods; (c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that he will receive a specified quantity of the finished goods. <p>However, conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in the country of importation shall not result in rejection of the transaction value for the purposes of Article 29 (1).</p>
Article 29 (2)	<ol style="list-style-type: none"> 1. Paragraphs 2 a) and b) provide different means of establishing the acceptability of a transaction value. 2. Paragraph 2 a) provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the customs value provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the customs authority has no doubts about the acceptability of the price, it should be accepted without requesting further information from the declarant. For example, the customs authority may have previously examined the relationship, or it may already have detailed information concerning the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price. 3. Where the customs authority is unable to accept the transaction value without further inquiry, it should give the declarant an opportunity to

	<p>supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale, in this context, the customs authority should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although related under the provisions of Article 3 of this Regulation, buy from and sell to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sales to buyers who are not related to him, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period of time (e.g. on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.</p> <p>4. Paragraph 2 b) provides an opportunity for the declarant to demonstrate that the transaction value closely approximates to a 'test' value previously accepted by the customs authority and is therefore acceptable under the provisions of Article 29. Where a test under paragraph 2 b) is met, it is not necessary to examine the question of influence under paragraph 2 a). If the customs authority already has sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in paragraph 2 b) has been met, there is no reason for them to require the declarant to demonstrate that the test can be met.</p>
Article 29 (2) b)	<p>A number of factors must be taken into consideration in determining whether one value 'closely approximates' to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and, whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the 'test' values set forth in Article 29 (2) b).</p>
Article 29 (3) a)	<p>An example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owed by the seller.</p>
Article 30 Article 31	<p>1. In applying these provisions, the customs authority shall, where possible, use a sale of identical or similar goods, as appropriate, at the same commercial level and in substantially the same quantity as the goods being valued. Where no such sale is found, a sale of identical or similar goods, as appropriate, that takes place under any one of the following three conditions may be used:</p> <p>(a) a sale at the same commercial level but in a different quantity;</p>

	<p>(b) a sale at a different commercial level but in substantially the same quantity; or</p> <p>(c) a sale at a different commercial level and in a different quantity.</p> <p>2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:</p> <p>(a) quantity factors only;</p> <p>(b) commercial level factors only; or</p> <p>(c) both commercial level and quantity factors.</p> <p>3. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical or similar imported goods, as appropriate, for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Article 30 and Article 31 is not appropriate.</p>
Article 30 (1) b Article 31 (1) b)	The expression 'and/or' allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described in paragraph 1 of the interpretative note to Articles 30 and 31.
Article 33 (1) a) 1.	<p>1. The words 'profit and general expenses' should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by the declarant unless his figures are inconsistent with those obtaining in sales in the Republic of Macedonia of imported goods of the same class or kind. Where the declarant's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by the declarant.</p> <p>2. In determining either the commissions or the usual profits and general expenses under this provision, the question whether certain goods are of the same class or kind as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in the Republic of Macedonia of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of this provision, 'goods of the same class or kind' includes goods imported from the same country as the goods being valued as well as goods imported from other countries.</p>
Article 33 (2)	<p>1. Where this method of valuation is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry</p>

	<p>formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.</p> <p>2. This method of valuation would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty.</p> <p>On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in the country of importation that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.</p>
Article 34	<p>1. As a general rule, customs value is determined under these provisions on the basis of information readily available in the Republic of Macedonia. In order to determine a computed value, however, it may be necessary to examine the cost of producing the goods being valued and other information which has to be obtained from outside the Republic of Macedonia. Furthermore, in most cases the producer of the goods will be outside the jurisdiction of the authorities of the Republic of Macedonia. The use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the authorities of the Republic of Macedonia the necessary costings and to provide facilities for any subsequent verification which may be necessary.</p> <p>2. The 'cost or value' referred to in Article 34 (1) a), is to be determined on the basis of information relating to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.</p> <p>3. The 'amount for profit and general expenses' referred to in Article 34 (1) b), is to be determined on the basis of information supplied by or on behalf of the producer unless his figures are inconsistent with those 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 Republic of Macedonia.</p> <p>4. No cost or value of the elements referred to in this Article shall be counted twice in determining the computed value.</p> <p>5. It should be noted in this context that the 'amount for profit and general expenses' has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and his general expenses are high, his profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being launched in the Republic of Macedonia and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate that he is taking a low profit on his sales of the imported goods because of particular commercial circumstances, his actual profit figures should be taken into account provided that he has valid commercial reasons to justify them and his pricing policy reflects usual pricing policies in the</p>

	<p>branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in the Republic of Macedonia and accept a low profit to maintain competitiveness. Where the producer's own figures for profit and general expenses are not consistent with those 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 Republic of Macedonia, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.</p> <p>6. Whether certain goods are 'of the same class or kind' as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of Article 34, sales for export to the Republic of Macedonia of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 34, 'goods of the same class or kind' must be from the same country as the goods being valued.</p>
Article 35 (1)	<p>1. Customs values determined under the provisions of Article 35 (1) should, to the greatest extent possible, be based on previously determined customs values.</p> <p>2. The methods of valuation to be employed under Article 35 (1) should be those laid down in Articles 29 and 34, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Article 35 (1).</p> <p>3. Some examples of reasonable flexibility are as follows:</p> <p>(a) <i>identical goods</i> — the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of Articles 33 and 34 could be used;</p> <p>(b) <i>similar goods</i> — the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Articles 33 and 34 could be used;</p> <p>(c) <i>deductive method</i> — the requirement that the goods shall have been sold in the 'condition as imported' in Article 33 (1) a) of the Customs Code could be flexibly interpreted; the '90 days' requirement could be administered flexibly.</p>
Article 36 (1) b) 2.	<p>1. There are two factors involved in the apportionment of the elements specified in Article 36 (1) b) 2. to the imported goods — the value of the element itself and the way in which that value is to be apportioned</p>

	<p>to the imported goods. The apportionment of these elements should be made in reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.</p> <ol style="list-style-type: none"> 2. Concerning the value of the element, if the buyer acquires the element from a seller not related to him at a given cost, the value of the element is that cost. If the element was produced by the buyer or by a person related to him, its value would be the cost of producing it. If the element had been previously used by the buyer, regardless of whether it had been acquired or produced by him, the original cost of acquisition or production would have to be adjusted downwards to reflect its use in order to arrive at the value of the element. 3. Once a value has been determined for the element, it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment, if the buyer wishes to pay duty on the entire value at one time. As another example, he may request that the value be apportioned over the number of units produced up to the time of the first shipment. As a further example, he may request that the value be apportioned over the entire anticipated production where contracts or firm commitments exist for that production. The method of apportionment used will depend upon the documentation provided by the buyer. 4. As an illustration of the above, a buyer provides the producer with a mould to be used in the production of the imported goods and contracts with him to buy 10 000 units. By the time of arrival of the first shipment of 1 000 units, the producer has already produced 4 000 units. The buyer may request the customs authority to apportion the value of the mould over 1 000, 4 000 or 10 000 units.
Article 36 (1) b) 4.	<ol style="list-style-type: none"> 1. Additions for the elements specified in Article 36 (1) b) 4. should be based on objective and quantifiable data. In order to minimize the burden for both the declarant and customs authority in determining the values to be added, data readily available in the buyer's commercial record system should be used insofar as possible. 2. For those elements supplied by the buyer which were purchased or leased by the buyer, the addition would be the cost of the purchase or the lease. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them. 3. The ease with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods. 4. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design centre outside the country of importation in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of Article 36. 5. In another case, a firm may carry the cost of the design centre outside the country of importation as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of Article 36 with respect to the imported goods by apportioning total design centre costs over total production benefiting from the design centre and adding

	<p>such apportioned cost on a unit basis to imports.</p> <p>6. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.</p> <p>7. In cases where the production of the element in question involves a number of countries and over a period of time, the adjustment should be limited to the value actually added to that element outside the Republic of Macedonia.</p>
Article 36 (1) c)	The royalties and licence fees referred to in Article 36 (1) c) may include, among other things, payments in respect to patents, trademarks and copyrights.
Article 36 (2)	Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of Article 36, the transaction value can not be determined under the provisions of Article 29. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a litre of a particular product that was imported by the kilogram and made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty can not be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

First column	Second column			
Reference to provisions of the Regulation	Notes			
Article 3 (1) e)	One person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.			
Article 11 (1)	1. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.			
	Sale quantity	Unit price	Number of sales	Total quantity sold at each price
	1 to 10 units	100	10 sales of 5 units Five sales of 3 units	65
	11 to 25 units	95	Five sales of 11 units	55
	Over 25 units	90	One sale of 30 units One sale of 50 units	80
	The greatest number of units sold at a price is 80; therefore, the unit			

price in the greatest aggregate quantity is 90.

2. As another example of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.
3. A third example would be the following situation where various quantities are sold at various prices

(a) Sales

<i>Sale quantity</i>	<i>Unit price</i>
40 units	100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

(b) Total

<i>Total quantity sold</i>	<i>Unit price</i>
65	90
50	95
60	100
25	105

In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is 90.

ANNEX 2

APPLICATION OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR THE DETERMINATION OF CUSTOMS VALUE

- (1) "Generally accepted accounting principles" refers to the recognized consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures.
 - (2) For the purposes of the application of the customs valuation provisions, the customs authority shall utilize information prepared in a manner consistent with generally accepted accounting principles in the country which is appropriate for the Article in question. For example, the determination of usual profit and general expenses under the provisions of Article 33 (1) a) 1. of the Customs Code would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the Republic of Macedonia. On the other hand, the determination of usual profit and general expenses under the provisions of Article 34 (1) b) of the Customs Code would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of production. As a further example, the determination of an element provided for in Article 36 (1) b) 2. of the Customs Code undertaken in the Republic of Macedonia would be carried out utilizing information in a manner consistent with the generally accepted accounting principles.
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