

REGULATION (EEC) No 604/72 OF THE COMMISSION

of 24 March 1972

on applying Article 3 (5) (c) and (6) of Council Regulation (EEC) No 803/68 of 27 June 1968 on the valuation of goods for customs purposes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 803/68¹ of 27 June 1968 on the valuation of goods for customs purposes, and in particular Article 3 (5) (c) and (6) and Article 17 thereof;

Whereas, when goods are imported for sale, other disposal or use, after further manufacture, under a foreign trade mark, the value of the right to use the trade mark shall be wholly included in the normal price of the goods to be valued in the cases referred to in Article 3 (4) of Council Regulation (EEC) No 803/68; whereas, on the other hand, the value shall be wholly excluded from that price in the cases referred to in paragraph 5 of that Article; whereas part of this value shall be included in that price in the cases referred to in paragraph 6 of the Article;

Whereas, in accordance with paragraph 5 (c) of that Article, the value of the right to use a foreign trade mark shall not be included in the normal price of the goods to be valued where the provisions of paragraph 4 (a) do not apply and where, in accordance with the procedure laid down in Article 17 of that Regulation, criteria are established for goods whose value is relatively low as compared with the value of the finished product;

Whereas paragraph 6 of the abovementioned Article 3 provides for an apportionment of the value of the right to use a foreign trade mark when the provisions of paragraphs 4 and 5 do not apply, the part of such value attributable to further manufacture after

importation being excluded from the normal price of the goods to be valued;

Whereas it is necessary to determine the procedure for applying paragraph 5 (c) of that Article, and also to give paragraph 6 an interpretation which will ensure uniform application of that provision within the Community;

Whereas it is desirable in the first instance to fix the limit up to which the value of imported goods may be considered to be relatively low as compared with the value of the finished products; whereas, according to available information the fixing of that limit at 25% should ensure that Article 3 (5) (c) is satisfactorily applied;

Whereas it is necessary to determine, for the purpose of implementing paragraph 6 of that Article, the relationship between the value for customs purposes of the imported goods, excluding any factor relating to the right to use the foreign trade mark, and the value of operations carried out after importation; whereas for the purpose of implementing paragraphs 5 (c) and 6 of that Article, it is necessary to define the constituent elements of the value of the operations carried out after importation;

Whereas the provisions of this Regulation are in accordance with the Opinion of the Customs Valuation Committee;

HAS ADOPTED THIS REGULATION:

Article 1

For the purpose of implementing Article 3 (5) (c) of Regulation (EEC) No 803/68, the value of the right to use a foreign trade mark shall be wholly excluded from the normal price of the goods to be valued where the value for customs purposes of the

¹ OJ No L 148, 28.6.1968, p. 6.

imported goods, excluding any factor relating to the right to use the trade mark, does not exceed 25% of the total production cost of the finished products.

Article 2

The total production cost of the finished products, within the meaning of Article 1, shall be equal to the value for customs purposes of the imported goods, excluding any factor relating to the right to use the trade mark, plus the value of the operations carried out after importation.

The constituent elements of the value of the operations carried out after importation are set out in the Annex to this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 March 1972.

Article 3

For the purpose of implementing Article 3 (6) of Regulation (EEC) No 803/68, the part of the value of the right to use the trade mark to be included in the normal price of the goods to be valued shall be determined on the basis of a proportional apportionment as between the value for customs purposes of the imported goods, excluding any factor relating to the right to use the trade mark, and the value of the operations carried out after importation.

Article 4

This Regulation shall enter into force on 1 May 1972.

For the Commission

The President

S. L. MANSHOLT

ANNEX

Constituent elements of the value of operations carried out after importation

The constituent elements of the value of operations carried out after importation are as follows:

1. *The costs of the goods*, other than those to be valued, used in the further manufacture.

These costs include in particular:

- (a) the cost of materials used in the manufacture of the finished product, including the cost of transport, insurance, analysis, stocking or storage relating thereto, but excluding consumer taxes or other similar charges relating directly to these materials;
- (b) the cost of ancillary materials used at the time of manufacture;
- (c) the cost of the usual type of immediate packaging of the finished product.

2. *Manufacturing costs* related to further manufacture.

These costs include in particular:

- (a) the cost of labour, namely wages and salaries, including bonuses and benefits in kind;
- (b) social security contributions;
- (c) insurance premiums;
- (d) rent for industrial premises and plant;
- (e) the amortization of industrial premises and plant;
- (f) expenditure on development, tests and research;
- (g) royalty payments in respect of patent rights and licences.

3. *Profit* on the operations carried out after importation.

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