

Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (repealed)

PART I

GENERAL IMPLEMENTING PROVISIONS

TITLE V

CUSTOMS VALUE

CHAPTER 1

General provisions

Article 141

1 In applying the provisions of Articles 28 to 36 of the Code and those of this title, Member States shall comply with the provisions set out in Annex 23.

The provisions as set out in the first column of Annex 23 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 24 shall apply.

Article 142

1 For the purposes of this title:

- 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 31 (1) of the 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

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for which no adjustment has been made under Article 32 (1) (b) (iv) of the Code because such elements were undertaken in the Community.

Article 143

1 For the purposes of Articles 29 (1) (d) and 30 (2) (c) of the Code, persons shall be deemed to be related only if:

- a they are officers or directors of one another's businesses;
- 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 For the purposes of this title, 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 144

1 For the purposes of determining customs value under Article 29 of the 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.

2 The Commission and the Member States shall consult within the Committee concerning the application of paragraph 1.

Article 145

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 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.

Article 146

Where the price actually paid or payable for the purposes of Article 29 (1) of the Code includes an amount in respect of any internal tax applicable within the country of origin

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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 authorities concerned that the goods in question have been or will be relieved therefrom for the benefit of the buyer.

Article 147

1 For the purposes of Article 29 of the 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 Community. This indication shall also apply in the case of successive sales before valuation; in such case each price resulting from these sales may, subject to the provisions of Articles 178 to 181, be taken as a basis for valuation.

2 However, 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 148

Where, in applying Article 29 (1) (b) of the 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 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 32 of the Code.

Article 149

1 For the purposes of Article 29 (3) (b) of the 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 150

1 In applying Article 30 (2) (a) of the Code (the transaction value of identical goods), the customs value shall be determined by reference to 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. 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 32 (1) (e) of the Code are included in the transaction value, an adjustment shall be made to take account of significant differences in

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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.

4 In applying this Article, a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under paragraph 1 for identical goods produced by the same person as the goods being valued.

5 For the purposes of this Article, the transaction value of identical imported goods means a customs value previously determined under Article 29 of the Code, adjusted as provided for in paragraphs 1 (b) and 2 of this Article.

Article 151

1 In applying Article 30 (2) (b) of the Code (the transaction value of similar goods), the customs value shall be determined by reference to 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. 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 32 (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 for the imported goods.

4 In applying this Article, a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under paragraph 1 for similar goods produced by the same person as the goods being valued.

5 For the purposes of this Article, the transaction value of similar imported goods means a customs value previously determined under Article 29 of the Code, adjusted as provided for in paragraphs 1 (b) and 2 of this Article.

Article 152

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- a If the imported goods or identical or similar imported goods are sold in the Community in the condition as imported, the customs value of imported goods, determined in accordance with Article 30 (2) (c) of the Code, 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:
 - (i) 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 Community of imported goods of the same class or kind;

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- (ii) the usual costs of transport and insurance and associated costs incurred within the Community;
 - (iii) the import duties and other charges payable in the Community 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 of imported goods determined under this Article 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 Community 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 Community 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 Community 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).

3 For the purposes of this Article, 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.

4 Any sale in the Community 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 32 (1) (b) of the Code should not be taken into account in establishing the unit price for the purposes of this Article.

5 For the purposes of paragraph 1 (b), 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 153

1 In applying Article 30 (2) (d) of the Code (computed value), the customs authorities may not require or compel any person not resident in the Community to produce for examination, or to allow access to, any account or other record for the purposes of determining this 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 a non-Community country by the customs authorities of a Member State with the agreement of the producer and provided that such authorities give sufficient advance notice to the authorities of the country in question and the latter do not object to the investigation.

2 The cost or value of materials and fabrication referred to in the first indent of Article 30 (2) (d) of the Code shall include the cost of elements specified in Article 32 (1) (a) (ii) and (iii) of the Code.

It shall also include the value, duly apportioned, of any product or service specified in Article 32 (1) (b) of the 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 32 (1) (b) (iv) of the Code which are undertaken in the Community shall be included only to the extent that such elements are charged to the producer.

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3 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 authorities 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 15 of the Code.

5 The 'general expenses' referred to in the second indent of Article 30 (2) (d) of the 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 30 (2) (d) of the Code.

Article 154

Where containers referred to in Article 32 (1) (a) (ii) of the 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 155

For the purposes of Article 32 (1) (b) (iv) of the Code, the cost of research and preliminary design sketches is not to be included in the customs value.

Article 156

Article 33 (c) of the Code shall apply *mutatis mutandis* where the customs value is determined by applying a method other than the transaction value.

CHAPTER 2

Provisions concerning royalties and licence fees

Article 157

1 For the purposes of Article 32 (1) (c) of the 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 32 (5) of the Code, when the customs value of imported goods is determined under the provisions of Article 29 of the 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 158

1 When the imported goods are only an ingredient or component of goods manufactured in the Community, 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.

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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 32 (2) of the Code in Annex 23.

Article 159

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 160

When the buyer pays royalties or licence fees to a third party, the conditions provided for in Article 157 (2) shall not be considered as met unless the seller or a person related to him requires the buyer to make that payment.

Article 161

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 162

In applying Article 32 (1) (c) of the Code, the country of residence of the recipient of the payment of the royalty or licence fee shall not be a material consideration.

CHAPTER 3

Provisions concerning the place of introduction into the Community

Article 163

1 For the purposes of Article 32 (1) (e) and Article 33 (a) of the Code, the place of introduction into the customs territory of the Community shall be:

- a for goods carried by sea, the port of unloading, or the port of transhipment, subject to transhipment being certified by the customs authorities of that port;
- b for goods carried by sea and then, without transhipment, by inland waterway, the first port where unloading can take place either at the mouth of the river or canal or further inland, subject to proof being furnished to the customs office that the freight to the port of unloading is higher than that to the first port;
- c for goods carried by rail, inland waterway, or road, the place where the first customs office is situated;

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d for goods carried by other means, the place where the land frontier of the customs territory of the Community is crossed.

2 The customs value of goods introduced into the customs territory of the Community and then carried to a destination in another part of that territory through the territories of Austria, Switzerland, Hungary, the Czech and Slovak Republics or Yugoslavia as it was on 1 January 1991 shall be determined by reference to the first place of introduction into the customs territory of the Community, provided the goods are carried direct through the territories of Austria, Switzerland, Hungary, the Czech and Slovak Republics or Yugoslavia as defined above by a usual route across such territory to the place of destination.

3 The customs value of goods introduced into the customs territory of the Community and then carried by sea to a destination in another part of that territory shall be determined by reference to the first place of introduction into the customs territory of the Community, provided the goods are carried direct by a usual route to the place of destination.

4 Paragraphs 2 and 3 of this Article shall also apply where the goods have been unloaded, transhipped or temporarily immobilized in the territories of Austria, Switzerland, Hungary, the Czech and Slovak Republics or Yugoslavia within the meaning of paragraph 2, for reasons relating solely to their transport.

5 For goods introduced into the customs territory of the Community and carried directly from one of the French overseas departments to another part of the customs territory of the Community or vice versa, the place of introduction to be taken into consideration shall be the place referred to in paragraphs 1 and 2 situated in that part of the customs territory of the Community from which the goods came, if they were unloaded or transhipped there and this was certified by the customs authorities.

6 When the conditions specified at paragraphs 2, 3 and 5 are not fulfilled, the place of introduction to be taken into consideration shall be the place specified in paragraph 1 situated in that part of the customs territory of the Community to which the goods are consigned.

CHAPTER 4

Provisions concerning transport costs

Article 164

In applying Article 32 (1) (e) and 33 (a) of the 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 Community, transport costs shall be assessed in proportion to the distance covered outside and inside the customs territory of the Community, unless evidence is produced to the customs authorities 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 Community;
- (b) where goods are invoiced at a uniform free domicile price which corresponds to the price at the place of introduction, transport costs within the Community shall not be deducted from that price. However, such deduction shall be allowed if evidence is produced to the customs authorities that the free-frontier price would be lower than the uniform free domicile price;

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- (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 165

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 charge levied in the country of importation.

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-Datapost (in Denmark, EMS-Jetpost, in Germany, EMS-Kurierpostsendungen, in Italy, CAI-Post).

Article 166

The air transport costs to be included in the customs value of goods shall be determined by applying the rules and percentages shown in Annex 25.

CHAPTER 5

Valuation of certain carrier media for use in ADP equipment

Article 167

1 Notwithstanding Articles 29 to 33 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.

CHAPTER 6

Provisions concerning rates of exchange

Article 168

For the purposes of Articles 169 to 171 of this chapter:

- (a) 'rate recorded' shall mean:
- the latest selling rate of exchange recorded for commercial transactions on the most representative exchange market or markets of the Member State concerned, or

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- some other description of a rate of exchange so recorded and designated by the Member State as the ‘rate recorded’ provided that it reflects as effectively as possible the current value of the currency in question in commercial transactions;
- (b) ‘published’ shall mean made generally known in a manner designated by the Member State concerned;
- (c) ‘currency’ shall mean any monetary unit used as a means of settlement between monetary authorities or on the international market.

Article 169

1 Where factors used to determine the customs value of goods are expressed at the time when that value is determined in a currency other than that of the Member State where the valuation is made, the rate of exchange to be used to determine that value in terms of the currency of the Member State concerned shall be the rate recorded on the second-last Wednesday of a month and published on that or the following day.

2 The rate recorded on the second-last Wednesday of a month shall be used during the following calendar month unless it is superseded by a rate established under Article 171.

3 Where a rate of exchange is not recorded on the second-last Wednesday indicated in paragraph 1, or, if recorded, is not published on that or the following day, the last rate recorded for the currency in question published within the preceding 14 days shall be deemed to be the rate recorded on that Wednesday.

Article 170

Where a rate of exchange cannot be established under the provisions of Article 169, the rate of exchange to be used for the application of Article 35 of the Code shall be designated by the Member State concerned and shall reflect as effectively as possible the current value of the currency in question in commercial transactions in terms of the currency of that Member State.

Article 171

1 Where a rate of exchange recorded on the last Wednesday of a month and published on that or the following day differs by 5 % or more from the rate established in accordance with Article 169 for entry into use the following month, it shall replace the latter rate from the first Wednesday of that month as the rate to be applied for the application of Article 35 of the Code.

2 Where in the course of a period of application as referred to in the preceding provisions, a rate of exchange recorded on a Wednesday and published on that or the following day differs by 5 % or more from the rate being used in accordance with this Chapter, it shall replace the latter rate and enter into use on the Wednesday following as the rate to be used for the application of Article 35 of the Code. The replacement rate shall remain in use for the remainder of the current month, provided that this rate is not superseded due to operation of the provisions of the first sentence of this paragraph.

3 Where, in a Member State, a rate of exchange is not recorded on a Wednesday or, if recorded, is not published on that or the following day, the rate recorded shall, for the application in that Member State of paragraphs 1 and 2, be the rate most recently recorded and published prior to that Wednesday.

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Article 172

When the customs authorities of a Member State authorize a declarant to furnish or supply at a later date certain details concerning the declaration for free circulation of the goods in the form of a periodic declaration, this authorization may, at the declarant's request, provide that a single rate be used for conversion into that Member State's currency of elements forming part of the customs value as expressed in a particular currency. In this case, the rate to be used shall be the rate, established in accordance with this Chapter, which is applicable on the first day of the period covered by the declaration in question.

CHAPTER 7

Simplified procedures for certain perishable goods

Article 173

1 For the purpose of determining the customs value of products referred to in Annex 26, the Commission shall establish for each classification heading a unit value per 100 kg net expressed in the currencies of the Member States.

The unit values shall apply for periods of 14 days, each period beginning on a Friday.

2 Unit values shall be established on the basis of the following elements, which are to be supplied to the Commission by Member States, in relation to each classification heading:

- a the average free-at-frontier unit price, not cleared through customs, expressed in the currency of the Member State in question per 100 kg net and calculated on the basis of prices for undamaged goods in the marketing centres referred to in Annex 27 during the reference period referred to in Article 174(1);
- b the quantities entered into free circulation over the period of a calendar year with payment of import duties.

3 The average free-at-frontier unit price, not cleared through customs, shall be calculated on the basis of the gross proceeds of sales made between importers and wholesalers. However, in the case of the London, Milan and Rungis marketing centres the gross proceeds shall be those recorded at the commercial level at which those goods are most commonly sold at those centres.

There shall be deducted from the figures so arrived at:

- a marketing margin of 15 % for the marketing centres of London, Milan and Rungis and of 8 % for the other marketing centres,
- costs of transport and insurance within the customs territory,
- a standard amount of ECU 5 representing all the other costs which are not to be included in the customs value.

This amount shall be converted into the currencies of the Member States on the basis of the latest rates in force established in accordance with Article 18 of the Code,

- import duties and other charges which are not to be included in the customs value.

4 The Member States may fix standard amounts for deduction in respect of transport and insurance costs in accordance with paragraph 3. Such standard amounts and the methods for calculating them shall be made known to the Commission immediately.

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Article 174

1 The reference period for calculating the average unit prices referred to in Article 173 (2) (a) shall be the period of 14 days ending on the Thursday preceding the week during which new unit values are to be established.

2 Average unit prices shall be notified by Member States not later than 12 noon on the Monday of the week during which unit values are established pursuant to Article 173. If that day is a non-working day, notification shall be made on the working day immediately preceding that day.

3 The quantities entered into free circulation during a calendar year for each classification heading shall be notified to the Commission by all Member States before 15 June in the following year.

Article 175

1 The unit values referred to in Article 173 (1) shall be established by the Commission on alternate Tuesdays on the basis of the weighted average of the average unit prices referred to in Article 173 (2) (a) in relation to the quantities referred to in Article 173 (2) (b).

2 For the purpose of determining the weighted average, each average unit price as referred to in Article 173 (2) (a) shall be converted into ecu on the basis of the last conversion rates determined by the Commission and published in the *Official Journal of the European Communities* prior to the week during which the unit values are to be established. The same conversion rates shall be applied in converting the unit values so obtained back into the currencies of the Member States.

3 The last published unit values shall remain applicable until new values are published. However, in the case of major fluctuations in price in one or more Member States, as a result, for example, of an interruption in the continuity of imports of a particular product, new unit values may be determined on the basis of actual prices at the time of fixing those values.

Article 176

1 Consignments which at the material time for valuation for customs purposes contain not less than 5 % of produce unfit in its unaltered state for human consumption or the value of which has depreciated by not less than 20 % in relation to average market prices for sound produce, shall be treated as damaged.

2 Consignments which are damaged may be valued:

- either, after sorting, by application of unit values to the sound portion, the damaged portion being destroyed under customs supervision, or
- by application of unit values established for the sound produce after deduction from the weight of the consignment of a percentage equal to the percentage assessed as damaged by a sworn expert and accepted by the customs authorities, or
- by application of unit values established for the sound produce reduced by the percentage assessed as damaged by a sworn expert and accepted by the customs authorities.

Article 177

1 In declaring or causing to be declared the customs value of one or more products which he imports by reference to the unit values established in accordance with this Chapter, the person concerned joins the simplified procedure system for the current calendar year in respect of the product or products in question.

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2 If subsequently the person concerned requires the use of a method other than the simplified procedures for the customs valuation of one or more of the products he imports, the customs authorities of the Member State concerned shall be entitled to notify him that he will not be allowed to benefit from the simplified procedures for the remainder of the current calendar year in regard to the product or products concerned; this exclusion can be extended for the following calendar year. Such notified exclusion shall be communicated without delay to the Commission, which shall in turn immediately inform the customs authorities of the other Member States.

CHAPTER 8

Declarations of particulars and documents to be furnished

Article 178

1 Where it is necessary to establish a customs value for the purposes of Articles 28 to 36 of the Code, a declaration of particulars relating to customs value (value declaration) shall accompany the customs entry made in respect of the imported goods. The value declaration shall be drawn up on a form D.V. 1 corresponding to the specimen in Annex 28, supplemented where appropriate by one or more forms D.V. 1 *bis* corresponding to the specimen in Annex 29.

2 It shall be a particular requirement that the value declaration prescribed in paragraph 1 shall be made only by a person who has his residence or place of business in the customs territory of the Community and is in possession of the relevant facts.

3 The customs authorities may waive the requirement of a declaration on the form referred to in paragraph 1 where the customs value of the goods in question cannot be determined under the provisions of Article 29 of the Code. In such cases the person referred to in paragraph 2 shall furnish or cause to be furnished to the customs authorities such other information as may be requested for the purposes of determining the customs value under another Article of the said Code; and such other information shall be supplied in such form and manner as may be prescribed by the customs authorities.

4 The lodging with a customs office of a declaration required by paragraph 1 shall, without prejudice to the possible application of penal provisions, be equivalent to the engagement of responsibility by the person referred to in paragraph 2 in respect of:

- the accuracy and completeness of the particulars given in the declaration,
- the authenticity of the documents produced in support of these particulars, and
- the supply of any additional information or document necessary to establish the customs value of the goods.

5 This Article shall not apply in respect of goods for which the customs value is determined under the simplified procedure system established in accordance with the provisions of Articles 173 to 177.

Article 179

1 Except where it is essential for the correct application of import duties, the customs authorities shall waive the requirement of all or part of the declaration provided for in Article 178 (1):

- a where the customs value of the imported goods in a consignment does not exceed ECU 5 000, 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 noncommercial nature; or

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- c where the submission of the particulars in question is not necessary for the application of the Customs Tariff of the European Communities or where the customs duties provided for in the Tariff are not chargeable pursuant to specific customs provisions.

2 The amount in ecu referred to in paragraph 1 (a) shall be converted in accordance with Article 18 of the Code. The customs authorities may round-off upwards or downwards the sum arrived at after conversion.

The customs authorities may maintain unamended the exchange value in national currency of the amount determined in ecu if, at the time of the annual adjustment provided for in Article 18 of the Code, the conversion of this amount, before the rounding-off provided for in this paragraph, leads to an alteration of less than 5 % in the exchange value expressed in national currency or to a reduction thereof.

3 In the case of continuing traffic in goods supplied by the same seller to the same buyer under the same commercial conditions, the customs authorities may waive the requirement that all particulars under Article 178 (1) be furnished in support of each customs declaration, but shall require them whenever the circumstances change and at least once every three years.

4 A waiver granted under this Article may be withdrawn and the submission of a D.V. 1 may be required where it is found that a condition necessary to qualify for that waiver was not or is no longer met.

Article 180

Where computerized systems are used, or where the goods concerned are the subject of a general, periodic or recapitulative declaration, the customs authorities may authorize variations in the form of presentation of data required for the determination of customs value.

Article 181

1 The person referred to in Article 178 (2) shall furnish the customs authorities with a copy of the invoice on the basis of which the value of the imported goods is declared. Where the customs value is declared in writing this copy shall be retained by the customs authorities.

2 In the case of written declarations of the customs value, when the invoice for the imported goods is made out to a person established in a Member State other than that in which the customs value is declared, the declarant shall furnish the customs authorities with two copies of the invoice. One of these copies shall be retained by the customs authorities; the other, bearing the stamp of the office in question and the serial number of the declaration at the said customs office shall be returned to the declarant for forwarding to the person to whom the invoice is made out.

3 The customs authorities may extend the provisions of paragraph 2 to cases where the person to whom the invoice is made out is established in the Member State in which the customs value is declared.

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