COMMISSION REGULATION (EEC) No 1495/80

of 11 June 1980

implementing certain provisions of Articles 1, 3 and 8 of Council Regulation (EEC) No 1224/80 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 1224/80 of 28 May 1980 on the valuation of goods for customs purposes (1), and in particular Article 19 (1) (b) thereof,

Whereas it is necessary to ensure uniform application of the provisions of Regulation (EEC) No 1224/80 and to this end to adopt implementing provisions;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Customs Valuation Committee,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of Article 1 (2) (h) of Regulation (EEC) No 1224/80, 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,

— brothers and sisters (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,

— brothers-in-law and sisters-in-law.

Article 2

1. For purposes of determining customs value under the provisions of Article 3 of Regulation (EEC) No 1224/80 of goods in regard to which the price has not actually been paid at the material time for valuation, 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 Customs Valuation Committee concerning the application of paragraph 1.

Article 3

Provided that they are distinguished from the price actually paid or payable, the following shall not be included in the customs value determined under Article 3 of Regulation (EEC) No 1224/80:

(a) a charge for the right to reproduce the imported goods in the Community;

(b) a buying commission;

(c) interest payable under a financing arrangement relating to the purchase of the imported goods.

Article 4

Where goods declared for free circulation in the customs territory of the Community 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 3 (1) of Regulation (EEC) No 1224/80 shall be that price represented by the proportion of the total price which the quantity so declared bears to the total quantity purchased.

Article 5

Where the price actually paid or payable for the purposes of Article 3 (1) of Regulation (EEC) No 1224/80 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 authorities concerned that the goods in question have been or will be relieved therefrom for the benefit of the buyer.

Article 6

For the purposes of Article 3 (1) of Regulation (EEC) No 1224/80, the fact that the goods are declared for free circulation in the Community shall be regarded as

(1) OJ No L 134, 31. 5. 1980, p. 1.

adequate indication that they were sold for export to the customs territory of the Community.

Article 7

Where, in applying Article 3 (1) (b) of Regulation (EEC) No 1224/80, 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 3 (3) (b) of the said Regulation applies; or

(b) a factor in respect to which an addition is to be made to the price actually paid or payable under the provisions of Article 8 of the said Regulation.

Article 8

1. For the purposes of Article 3 (3) (b) of Regulation (EEC) No 1224/80, 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 9

Where containers referred to in Article 8 (1) (a) (ii) of Regulation (EEC) No 1224/80 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 10

For the purposes of Article 8 (1) (b) (iv) of Regulation (EEC) No 1224/80, the cost of research and preliminary design sketches is not to be included in the customs value.

Article 11

In applying Article 8 (1) (c) of Regulation (EEC) No 1224/80, the country of residence of the recipient of the payment shall not be a material consideration.

Article 12

This Regulation shall enter into force on 1 July 1980.

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

Done at Brussels, 11 June 1980.

For the Commission
Étienne DAVIGNON
Member of the Commission