

The Governments signatory to the present Convention,

Desiring to facilitate international trade,

Desiring to simplify international customs tariff negotiations and the comparison of foreign trade statistics inasmuch as such comparisons are more exact if based upon a uniform valuation of goods,

Being convinced that the maximum uniformity in defining the value of goods for customs purposes will constitute an important step towards the attainment of these objects,

Having taken into consideration the work already accomplished in Brussels in this sphere by the European Customs Union Study Group, and Considering that the best way of achieving results in this respect is to conclude an international Convention,

Have agreed as follows:

## **Article I**

For the purpose of the present Convention,

(a) "the Convention establishing the Council" means the Convention establishing the Customs Co-operation Council opened for signature in Brussels on the 15th December, 1950;

(b) "the Council" means the Customs Co-operation Council referred to in paragraph (a) of this Article;

(c) "the Secretary General" means the Secretary General of the Council.

## **Article II**

Subject to the provisions of Article IV, each Contracting Party shall introduce into its domestic law and apply, as from the date on which the present Convention comes into force in respect of it, the Definition of Value (hereinafter referred to as the "Definition") set out in Annex I of the Convention.

### **Article III**

Each Contracting Party shall, in applying the Definition, conform to the provisions of the Interpretative Notes (hereinafter referred to as the "Notes") set out in Annex II to the present Convention.

### **Article IV**

Each Contracting Party may adapt the text of the Definition

(a) by inserting therein such provisions of the Notes as it may consider necessary,

(b) by giving the text such legal form as may be essential to render it operative in its domestic law, if necessary by adding complementary provisions clarifying the purport of the Definition.

### **Article V**

(a) The Council shall supervise the operation of the present Convention with a view to securing uniformity in its interpretation and application.

(b) To this end, the Council shall establish a Valuation Committee on which each Member of the Council to which the present Convention applies shall have the right to be represented.

### **Article VI**

The Valuation Committee shall have the following functions which shall be exercised under the authority of the Council and in accordance with any directions which the Council may give:

(a) to collate and circulate to the Contracting Parties information concerning the valuation of goods by the Contracting Parties for customs purposes;

(b) to study, the domestic laws, procedures and practices of the Contracting Parties in relation to the Definition and Notes, and, accordingly, to make recommendations to the Council or the Contracting Parties to secure uniformity; in the interpretation and application of the Definition and Notes and the adoption of standard procedures and practices;

- (c) to prepare explanatory notes as a guide to the application of the Definition;
- (d) on its own initiative or on request, to furnish to Contracting Parties information or advice on any-matters concerning the valuation of goods for customs purposes;
- (e) to submit to the Council proposals for any amendment of the present Convention which it may consider desirable;
- (f) to exercise such other powers and functions of the Council in relation to the valuation of goods for customs purposes as the Council may delegate to it.

## **Article VII**

- (a) The Valuation Committee shall meet at least three times a year.
- (b) It shall elect its own Chairman and one or more Vice-Chairmen.
- (c) It shall draw up its own Rules of Procedure by decision taken by not less than two-thirds of its members. The Rules of Procedure so drawn up shall be subject to the approval of the Council.

## **Article VIII**

The Annexes to the present Convention shall form an integral part thereof and any reference to the Convention shall be deemed to include a reference to the Annexes.

## **Article IX**

The Contracting Parties accept the provisions of the Protocol attached to the present Convention concerning special methods of taxing goods falling within Chapter 30 and Heading 33.06 of the Nomenclature annexed to the Convention on Nomenclature for the Classification of Goods in Customs Tariffs opened for signature in Brussels on the same date as the present Convention.

## **Article X**

(a) The present Convention shall abrogate as between the Contracting Parties all obligations under other international agreements in so far as they are inconsistent with the present Convention.

(b) The present Convention shall not derogate from the obligations, under any other international agreement, incurred by any, Contracting Party before the coming into force of the present Convention in respect of it towards any Government not a party to the present Convention. However, the Contracting Parties shall, as soon as circumstances permit and in any case on the renewal of such prior agreements, arrange to make any necessary amendments thereto in order to bring them into conformity with the provisions of the present Convention.

## **Article XI**

(a) Any dispute between two or more Contracting Parties concerning the interpretation or application of the present Convention shall so far as possible be settled by negotiation between them.

(b) Any dispute which is not settled by negotiation shall be referred by the Contracting Parties in dispute to the Valuation Committee which shall thereupon consider the dispute, and make recommendations for its settlement.

(c) If the Valuation Committee is unable to settle the dispute, it shall refer the matter to the Council which shall make recommendations in conformity with Article III (e) of the Convention establishing the Council.

(d) The Contracting Parties in dispute may agree in advance to accept the recommendations of the Committee or Council as binding.

## **Article XII**

The present Convention shall be open for signature until 31st March 1951, by any Government which has signed the Convention establishing the Council.

## **Article XIII**

(a) The present Convention shall be subject to ratification.

(b) Instruments of ratification shall be deposited with the Belgian Ministry of Foreign Affairs, which shall notify all signatory and acceding Governments and the Secretary General of each such deposit. However, no Government may deposit its instrument of ratification of the present Convention until it has deposited its instrument of ratification of the Convention establishing the Council.

#### **Article XIV**

(a) Three months after the date on which the Belgian Ministry of Foreign Affairs has received the instruments of ratification of seven Governments, the present Convention shall come into force in respect of those Governments.

(b) For each signatory Government ratifying after that date, the Convention shall come into force three months after the date of the deposit of its instrument of ratification with the Belgian Ministry of Foreign Affairs.

#### **Article XV**

(a) The Government of any State which is not a signatory to the present Convention, but which has ratified or acceded to the Convention establishing the Council, may accede to the present Convention as from 1st April, 1951.

(b) Instruments of accession shall be deposited with the Belgian Ministry of Foreign Affairs, which shall notify all signatory and acceding Governments and the Secretary General of each such deposit.

(c) The present Convention shall come into force for any acceding Government three months after the date of the deposit of its instrument of accession but not before it comes into force in accordance with paragraph (a) of Article XIV.

#### **Article XVI**

(a) The present Convention is of unlimited duration, but at any time after the expiry of five years from its entry into force under paragraph (a) of Article XIV,

any Contracting Party may withdraw therefrom. Withdrawal shall take effect one year after the date of receipt by the Belgian Ministry of Foreign Affairs of a notification of withdrawal. The Belgian Ministry of Foreign Affairs shall notify each withdrawal to all signatory and acceding Governments and to the Secretary-General.

(b) Any Contracting Party which ceases to be a party to the Convention establishing the Council shall thereupon cease to be a party to the present Convention.

## **Article XVII**

(a) Any Government may at the time of its ratification or accession or at any time thereafter, declare by, notification given to the Belgian Ministry of Foreign Affairs that the present Convention shall extend to any of the territories for whose international relations it is responsible, and the Convention shall extend to the territories named in the notification three months after the date of the receipt thereof by the Belgian Ministry of Foreign Affairs but not before the Convention has come into force for the Government concerned.

(b) Any Government which has made a declaration under paragraph (a) above extending the present Convention to any territory for whose international relations it is responsible, may by notification given to the Belgian Ministry of Foreign Affairs withdraw in respect of that territory in accordance with the provisions of Article XVI.

(c) The Belgian Ministry of Foreign Affairs shall inform all signatory and acceding Governments and the Secretary General of any notification received by it under this Article.

## **Article XVIII**

(a) The Council may recommend amendments to the present Convention to the Contracting Parties.

(b) Any Contracting Party accepting an amendment shall notify the Belgian Ministry of Foreign Affairs in writing of its acceptance and the Belgian Ministry

of Foreign Affairs shall notify all signatory and acceding Governments and the Secretary General of the receipt of the notice of acceptance.

(c) An amendment shall come into force three months after receipt by the Belgian Ministry of Foreign Affairs of notice of acceptance by all the Contracting Parties. When any amendment has been accepted by all the Contracting Parties the Belgian Ministry of Foreign Affairs shall notify all signatory and acceding Governments and the Secretary General of such acceptance and of the date on which the amendment will come into force.

(d) After an amendment has come into force, no Government may ratify or accede to the present Convention unless it also accepts the amendment.

IN WITNESS WHEREOF the undersigned, having been duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at Brussels on the fifteenth day of December, nineteen hundred and fifty (December 15th, 1950) in the English and French languages, both texts being equally authentic, in a single original, which shall be deposited in the archives of the Government of Belgium which shall transmit certified copies thereof to each signatory and acceding Government.

## **Annex I - Definition of value**

### **Article I**

(1) For the purposes of levying duties of customs, the value of any goods imported for home consumption shall be taken to be the normal price, that is to say, the price which they would fetch at the time when the duty becomes payable on a sale in the open market between buyer and seller independent of each other.

(2) The normal price of any imported goods shall be determined on the following assumptions:

(a) that the goods are treated as having been delivered to the buyer at the port or place of introduction into the country of importation; and

- (b) that the seller will bear all costs, charges and expenses incidental to the sale and to the delivery of the goods at that port or place; but
- (c) that the buyer will bear any duties or taxes applicable in the country of importation.

## **Article II**

(1) A sale in the open market between buyer and seller independent of each other pre-supposes:

- (a) that the price is the sole consideration; and
- (b) that the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question); and
- (c) that no part of the proceeds of the subsequent re-sale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

(2) Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third person has an interest in the business or property of both of them.

## **Article III**

When the goods to be valued

- (a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or
- (b) are imported under a foreign trade mark or are imported for sale under a foreign trade mark, the normal price shall be determined on the assumption that the value of the right to use the patent, design or trade mark in respect of the goods is covered by the price.

# **Annex II - Interpretative notes to the definition of value**

## **Addendum to Article I**

### **Note 1**

"The time when the duty becomes payable" referred to in paragraph (1) of Article I may, in accordance with the legislation of each country, be either the time at which the entry is presented or registered, the time of payment of customs duty or the time of clearance.

### **Note 2**

The "costs, charges and expenses" mentioned in Article I, paragraph (2) (b) include, inter alia, any of the following:

- carriage and freight;
- insurance;
- commission;
- brokerage;
- costs, charges and expenses of drawing up outside the country of importation documents incidental to the introduction of the goods into the country of importation, including consular fees;
- the net amount (after allowing for re-payments made or to be made) of duties and taxes applicable outside the country of importation;
- cost of containers excluding those which are treated as separate articles for the purpose of levying duties of customs; cost of packing (whether for labour, materials or otherwise);
- loading charges.

### **Note 3**

Where the normal price would depend upon the quantity in the sale, it shall be determined on the assumption that the sale is a sale of the quantity to be valued.

## **Note 4**

Where the determination of the value or of the price paid or payable depends upon factors which are expressed in a currency other than that of the country of importation, the foreign currency shall be converted into the currency of the importing country at the official rate of exchange of that country.

## **Note 5**

The object of the definition of value is to make it possible in all cases to calculate the duties payable on the basis of the price at which imported goods are freely available to any buyer in the open market at the port or place of introduction into the country of importation. It is a concept for general use and is applicable whether or not the goods are in fact imported under a contract of sale, and whatever the terms of that contract.

But the application of the Definition implies an enquiry into current prices at the time of valuation. In practice, therefore, when imported goods are the subject of a bona fide sale, the price paid or payable on that sale can generally be considered as a valid indication of the normal price mentioned in the Definition. This being so, the price paid or payable can reasonably be used as basis for valuation, and Customs authorities are recommended to accept this price as the value of the goods in question subject:

- (a) to proper safeguards aimed at preventing evasion of duty by means of fictitious or colourable contracts or prices; and
- (b) to such adjustment of the contract price as may be considered necessary on account of circumstances differentiating the contract from the notional concept embodied in the Definition of Value.

Adjustments under paragraph (b) above may in particular be required with reference to freight and other expenses dealt with in paragraph (2) of Article I

and Note 2 of the Addendum to Article 1, or with reference to discounts or other reductions in price granted in favour of sole agents or sole concessionaires, or to any abnormal discount or any reduction from the ordinary competitive price.

## **Addendum to Article III**

### **Note 1**

The provisions of Article III (b) may also be applied to goods imported for sale, after further manufacture, under a foreign trade mark.

### **Note 2**

Sub-paragraph (b) of Article III, or that sub-paragraph amended in accordance with Note 1 above, may be extended so that it shall not apply to a trade mark registered within the country of importation, unless it is a mark used for the purpose of indicating that goods in relation to which it is used are those of:

(a) any person by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside the country of importation; or

(b) a person associated in business with any such person as is referred to in (a) above; or

(c) a person to whom any such person as is referred to in (a) or (b) above has assigned the goodwill of the business in connection with which the trade mark is used.

## **General addendum**

It is recommended that the concept of value expressed by the Definition and these Interpretative Notes be employed for the valuing of all goods subject to customs declaration, including duty-free goods and goods liable to specific customs duties.

## **Annex III**

### **Protocol concerning special methods of taxing goods falling within chapter 30 and heading 33.06 of the nomenclature for the classification of goods in customs tariffs**

At the time of signing the Convention on the Valuation of Goods for Customs Purposes (hereinafter referred to as "the Convention") the Governments signatory to that Convention have agreed as follows:

(1) Any Government signatory to the Convention which, at the time when the Convention comes into force in respect of it, is applying, in respect of the following goods imported put up for retail sale:

(a) pharmaceutical products falling within Chapter 30 of the Annex to the Convention on Nomenclature for the Classification of Goods in Customs Tariffs, or

(b) perfumes, cosmetics and toilet preparations falling within heading 33.06 of that Annex,

a system of taxation based upon the internal retail resale price of the goods, instead of upon the normal price as defined in the Convention, may continue this system.

(2) Nevertheless, the Governments concerned recognize the importance of bringing the system of taxation of these products within the framework of the Convention and will do so as soon as possible.

(3) The present Protocol shall enter into force on the date on which the Convention enters into force.

IN WITNESS WHEREOF the undersigned, having been duly authorized thereto by their respective Governments, have signed the present Protocol. DONE at Brussels on the fifteenth day of December, nineteen hundred and fifty (December 15th, 1950) in the English and French languages, both texts being equally authentic, in a simple original, which shall be deposited in the

archives of the Government of Belgium which shall transmit certified copies thereof to each signatory Government and to each other Government which signs or accedes to the Convention.