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**Working Party on the
Accession of Ukraine**

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ACCESSION OF UKRAINE

Agreement on Implementation of Article VII of the General Agreement
on Tariffs and Trade 1994

Comparative Table

The Governmental Commission on Ukraine's Accession to the WTO has submitted the following information with the request that it be circulated to members of the Working Party.

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994	Draft Customs Code of Ukraine ¹	Notes on compliance
<p>GENERAL INTRODUCTORY COMMENTARY</p> <p>1. The primary basis for customs value under this Agreement is "transaction value" as defined in Article 1. Article 1 is to be read together with Article 8 which provides, <i>inter alia</i>, for adjustments to the price actually paid or payable in cases where certain specific elements which are considered to form a part of the value for customs purposes are incurred by the buyer but are not included in the price actually paid or payable for the imported goods. Article 8 also provides for the inclusion in the transaction value of certain considerations which may pass from the buyer to the seller in the form of specified goods or services rather than in the form of money. Articles 2 through 7 provide methods of determining the customs value whenever it cannot be determined under the provisions of Article 1.</p>	<p><u>Article 298. Methods of Determining of the Customs Value of Goods Imported into Ukraine</u></p> <p>The customs valuation of goods imported into the customs territory of Ukraine is applied through the following methods:</p> <ul style="list-style-type: none"> - transaction value of imported goods (method 1) - transaction value of identical goods (method 2) - transaction value of similar (analogous) goods (method 3) - deductive value (method 4) - computed value (method 5) - reserve method (method 6) <p>The basic method of the determining of the customs value of goods is the transaction value of the imported goods.</p> <p>In case the basic method cannot be used, the next from the above-mentioned methods is applied in the sequential order. And each succeeding method of customs valuation is applied if the customs value cannot be determined using the preceding method.</p> <p>Deductive and computed value methods can be used in any order upon the request of the declarant.</p>	<p style="text-align: center;">+</p>
<p>2. Where the customs value cannot be determined under the provisions of Article 1 there should normally be a process of consultation between the customs administration and importer with a view to arriving at a basis of value under the provisions of Article 2 or 3. It may occur, for example, that the importer has information about the customs value of identical or similar imported goods which is not immediately available to the customs administration in the port of importation. On the other hand, the customs administration may have information about the customs value of identical or similar imported goods which is not readily available to the importer. A process of consultation between the two parties will enable information to be exchanged, subject to the requirements of commercial confidentiality, with a view to determining a proper basis of value for customs purposes.</p>	<p><u>Article 295. Confidentiality of Information</u></p> <p>Information given by the declarant and defined as confidential or representing a commercial secret can be used by the customs authority only for customs purposes and cannot be disclosed, transferred to third persons, including other state authorities, without a special permission of the declarant, except when it is specified in the law.</p> <p>For the disclosure of information that presents a commercial secret or is confidential, the officers of customs authorities are held responsible according to the legislation.</p>	<p style="text-align: center;">+</p>

¹ The text cited in this table is taken from the draft Customs Code passed by the Supreme Rada at its second reading on 12 July 2001. There are small differences between this text and the text of the draft submitted to members of the Working Party in November 2000 (notified in document WT/ACC/UKR/88). These additions are identified in the text in this table by underlined italics.

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<p>3. Articles 5 and 6 provide two bases for determining the customs value where it cannot be determined on the basis of the transaction value of the imported goods or of identical or similar imported goods. Under paragraph 1 of Article 5 the customs value is determined on the basis of the price at which the goods are sold in the condition as imported to an unrelated buyer in the country of importation. The importer also has the right to have goods which are further processed after importation valued under the provisions of Article 5 if the importer so requests. Under Article 6 the customs value is determined on the basis of the computed value. Both these methods present certain difficulties and because of this the importer is given the right, under the provisions of Article 4, to choose the order of application of the two methods.</p>	<p><u>Article 298. Methods of Determination of the Customs Value of Goods that are Imported into Ukraine.</u></p> <p>The methods of deduction and computing value may be used in any sequence at the Declarant's discretion.</p>	<p>+</p>

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<p>4. Article 7 sets out how to determine the customs value in cases where it cannot be determined under the provisions of any of the preceding Articles.</p> <p><i>Members,</i></p> <p><i>Having regard</i> to the Multilateral Trade Negotiations;</p> <p><i>Desiring</i> to further the objectives of GATT 1994 and to secure additional benefits for the international trade of developing countries;</p> <p><i>Recognizing</i> the importance of the provisions of Article VII of GATT 1994 and desiring to elaborate rules for their application in order to provide greater uniformity and certainty in their implementation;</p> <p><i>Recognizing</i> the need for a fair, uniform and neutral system for the valuation of goods for customs purposes that precludes the use of arbitrary or fictitious customs values;</p> <p><i>Recognizing</i> that the basis for valuation of goods for customs purposes should, to the greatest extent possible, be the transaction value of the goods being valued;</p> <p><i>Recognizing</i> that customs value should be based on simple and equitable criteria consistent with commercial practices and that valuation procedures should be of general application without distinction between sources of supply;</p> <p><i>Recognizing</i> that valuation procedures should not be used to combat dumping;</p> <p>Hereby agree as follows:</p>	<p><u>Article 305. Reserve method.</u></p> <p>If the customs value may not be determined by the Declarant by way of subsequent application of methods specified in Articles 299—304 of this Code, or a customs authority has reasons to believe that these methods of determining the customs value can not be applied, the customs value of the goods shall be determined according to the international practice.</p> <p>The customs value of the goods shall be determined by the reserve method on the basis of Ukrainian legislation, and must be consistent with principles and provisions of Article VII of General Agreement Tariffs and Trade (GATT) and Agreement on Application of Article VII of the General Agreement on Tariffs and Trade (GATT) of 1994.</p> <p>To determine the customs value by the reserve method, a customs authority must share the available information regarding prices with a Declarant.</p> <p>To determine the customs value by the reserve method, one may not use:</p> <ol style="list-style-type: none"> 1) the price of goods on the domestic market of the country of exportation; 2) the price of goods for export to a country other than the country of importation; 3) prices of Ukrainian goods on the domestic market of Ukraine; 4) voluntary established or unproven price of good; 5) production expenses, which differ from those that were used to determine prices of identical or similar (analogous) goods in accordance with provisions of Article 304 of this Code. 6) <u>minimal customs value;</u> 7) <u>the higher of two alternative values.</u> 	<p>+</p>

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<p style="text-align: center;">PART I RULES ON CUSTOMS VALUATION <i>Article 1</i></p> <p>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 country of importation adjusted in accordance with the provisions of Article 8, provided:</p> <p>(a) that there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which:</p> <p>(i) are imposed or required by law or by the public authorities in the country of importation;</p> <p>(ii) limit the geographical area in which the goods may be resold; or</p> <p>(iii) do not substantially affect the value of the goods;</p> <p>(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;</p> <p>(c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Article 8; and</p> <p>(d) that the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of paragraph 2.</p> <p>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 within the meaning of Article 15 shall not in itself be grounds 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 importer or otherwise, the customs administration has grounds for considering that the relationship influenced the price, it shall communicate its grounds to the importer and the importer shall be given a reasonable opportunity to respond. If the importer so requests, the communication of the grounds shall be in writing.</p>	<p><u>Article 299. The valuation method based on the transaction value of the imported goods.</u></p> <p>The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods imported into Ukraine at the moment of their crossing the customs border of Ukraine.</p> <p>...</p> <p>The said method shall be applied to determine the customs value of the goods on condition that:</p> <p>1) there are no limitations of the rights of the buyer (importer) to use the goods that are being valued, except for those which:</p> <p>a) are established or required by laws of Ukraine;</p> <p>b) limit the geographical area in which the goods may be resold (alienated once again);</p> <p>c) do not substantially affect the value of the goods;</p> <p>2) the sale (alienation) and the transaction value do not depend on the conditions, the influence of which is impossible to predict;</p> <p>3) the data used by the Declarant are accurate, supported by documents, and are presented in a quantitative form;</p> <p>4) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller;</p> <p>5) participants of the transaction (exporter and importer) are not related, except for situations, provided <u>for by point 7 of part 3 of this article.</u></p> <p>Persons are considered to be related when:</p> <p>a) one of them (a physical person) is an official of both businesses involved in the transaction;</p> <p>b) they are partners in business;</p> <p>c) they are employer and employee;</p> <p>d) one party of the transaction owns five per cent or more of the outstanding voting stock or shares of another party's capital;</p> <p>e) both of them are directly or indirectly controlled by a third person;</p>	<p style="text-align: center;">+</p>

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<p>(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 importer demonstrates that such value closely approximates to one of the following occurring at or about the same time :</p> <ul style="list-style-type: none"> (i) the transaction value in sales to unrelated buyers of identical or similar goods for export to the same country of importation; (ii) the customs value of identical or similar goods as determined under the provisions of Article 5; (iii) the customs value of identical or similar goods as determined under the provisions of Article 6; <p>In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 8 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 paragraph 2(b) are to be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under the provisions of paragraph 2(b).</p>	<ul style="list-style-type: none"> f) together they directly or indirectly control a third person; g) one of them directly or indirectly controls the other; h) they are members of the same family. <p>6) 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 if they fall within the criteria of item 5 of part three of this Article.</p> <p>7) <u><i>In a sale between related persons, the transaction value shall be accepted for the purposes of customs valuation, if the customs authority deems such value acceptable. If the customs authority deems the transaction value between related persons as unacceptable for purposes of customs valuation, it has to inform the declarant about the reasons for which it considers this value to be unacceptable for purposes of customs valuation.</i></u></p> <p><u><i>The transaction value between related persons should be accepted by the customs authority for customs valuation purposes, if the declarant proves that this value approximates one of the following values:</i></u></p> <ul style="list-style-type: none"> a) <u><i>customs value of identical or similar goods, determined according to the articles 300-301 of this Code;</i></u> b) <u><i>customs value of identical or similar goods, determined according to Article 303 of this Code;</i></u> c) <u><i>customs value of identical or similar goods, determined according to the article 304 of this Code.</i></u> <p>In making comparisons, as provided in item 7 of part three of this Article, it is necessary to take into account the differences between elements specified in items 1 – 5 of part two of this Article, as well as expenses incurred by the seller during the sale of goods to the unrelated buyer, and not incurred during the sale of goods to a related buyer. These comparisons are to be made on the basis of the importer's application, and provide grounds only for making comparisons. In determining the customs value it is prohibited to base such determinations on the alternative transaction values specified in sub-items "a" – "c" of item 7 of part three of this Article.</p>	

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<p style="text-align: center;">Article 2</p> <p>1.(a) If the customs value of the imported goods cannot be determined under the provisions of Article 1, the customs value shall be the transaction value of identical goods sold for export to the same country of importation and exported at or about the same time as the goods being valued.</p> <p>(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.</p> <p>2. Where the costs and charges referred to in paragraph 2 of Article 8 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.</p> <p>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.</p>	<p><u>Article 300. Methods of valuation based on the transaction value of identical goods.</u></p> <p>For the purposes of determining the customs value of goods, the transaction value of identical goods shall be used, provided that requirements specified in this Article are met. Identical goods are considered to be goods which are the same in all respects with the goods being valued, including:</p> <ul style="list-style-type: none"> a) physical characteristics; b) quality and market reputation; c) country of origin; d) manufacturer. <p>Minor differences in appearance may not prevent the goods from being regarded as identical, if in general these goods meet the requirements of part 1 of this Article.</p> <p>The transaction value of identical goods shall be taken as a basis for determining the customs value of the goods, provided that such goods:</p> <ul style="list-style-type: none"> a) are sold (alienated) for import into the territory of Ukraine; b) are imported with the goods that are being valued simultaneously, or not earlier than 90 days before the importation of the goods that are being valued; c) are imported in approximately the same quantities and on the same commercial level. If identical goods were imported in a different quantities or on different commercial level, the Declarant is required to make necessary adjustments in the value of such goods, taking into account these differences, and documentary prove the reasonableness of the value. <p>The customs value of goods that is determined on the basis of transaction value of identical goods must be adjusted to reflect expenses specified in Article 299 of this Code.</p> <p>The adjustments by the Declarant can be made on the basis of accurate and documentary supported data.</p> <p>If several transaction values of identical goods exist for the purposes of application of this method, the lowest price shall be used for determining the customs value of goods being imported.</p>	<p style="text-align: center;">+</p>

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<p style="text-align: center;">Article 3</p> <p>1.(a) If the customs value of the imported goods cannot be determined under the provisions of Articles 1 and 2, the customs value shall be the transaction value of similar goods sold for export to the same country of importation and exported at or about the same time as the goods being valued.</p> <p>(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.</p> <p>2. Where the costs and charges referred to in paragraph 2 of Article 8 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.</p> <p>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.</p>	<p><u>Article 301. Method of evaluation based on the transaction value of similar (analogous) goods.</u></p> <p>The customs value shall be the transaction value of similar goods imported in accordance with provisions determined by this Article. In applying this method, the similar (analogous) goods shall mean goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions in comparison with goods being valued, and are commercially interchangeable.</p> <p>To determine whether goods are similar (analogous), the following characteristics shall be taken into account:</p> <ol style="list-style-type: none"> 1) quality, existence of a trade mark and market reputation; 2) country of origin; 3) manufacturer. <p>For purposes of application of the method of determination of the customs value of goods based on the transaction value of similar (analogous) goods, provisions of items 3 – 6 of Article 300 of this Code shall be used.</p>	<p style="text-align: center;">+</p>
<p style="text-align: center;">Article 4</p> <p>If the customs value of the imported goods cannot be determined under the provisions of Articles 1, 2 and 3, the customs value shall be determined under the provisions of Article 5 or, when the customs value cannot be determined under that Article, under the provisions of Article 6 except that, at the request of the importer, the order of application of Articles 5 and 6 shall be reversed.</p>	<p><u>Article 298. Methods of determination of the customs value of goods that are imported into Ukraine.</u></p> <p>...</p> <p>If the primary method may not be applied, then the methods listed in part one of this Article shall be applied sequentially. Every next method shall be applied on conditions that the customs value of goods may not be determined by applying the previous method.</p> <p>The methods of deduction and computing value may be used in any sequence at the Declarant's discretion.</p>	<p style="text-align: center;">+</p>

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<p style="text-align: center;">Article 5</p> <p>1.(a) If the imported goods or identical or similar imported goods are sold in the country of importation 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:</p> <ul style="list-style-type: none"> (i) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind; (ii) the usual costs of transport and insurance and associated costs incurred within the country of importation; (iii) where appropriate, the costs and charges referred to in paragraph 2 of Article 8; and (iv) the customs duties and other national taxes payable in the country of importation by reason of the importation or sale of the goods. <p>(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 country of importation 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.</p> <p>2. If neither the imported goods nor identical nor similar imported goods are sold in the country of importation 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 country of importation 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).</p>	<p><u>Article 303. Methods of valuation based on the deduction of the value.</u></p> <p>If the goods being valued or identical or similar imported goods are sold (alienated) in the country of importation in the condition as imported, the customs value of the goods shall be determined by the method of deduction of the value.</p> <p>The customs value of the goods shall be based on the unit price at which the goods being valued or identical or similar (analogous) goods are sold in the greatest aggregate quantity on the territory of Ukraine, at or about the same time of the importation of goods being valued, but not later than 90 days from the date of importation of the goods to the unrelated buyer.</p> <p>The following components shall be deducted from the unit price (provided that such components can be identified):</p> <ol style="list-style-type: none"> 1) commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in Ukraine of imported goods of the same class or kind; 2) the entrance (import) duty, taxes, charges and other fees paid in Ukraine in connection with importation or sale of goods; 3) the usual costs of loading, unloading, transport and insurance costs incurred in Ukraine during the importation; <p>If neither the goods being valued, nor identical or similar imported goods are sold in the country of importation in the condition as imported, then, if the declarant so requests, the customs value shall be based on the unit price of the processed goods, the added value taken into account and with all provisions of part 2 and 3 of this Article adhered to</p>	<p style="text-align: center;">+</p>

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<p style="text-align: center;">Article 6</p> <p>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:</p> <p>(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;</p> <p>(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 country of importation;</p> <p>(c) the cost or value of all other expenses necessary to reflect the valuation option chosen by the Member under paragraph 2 of Article 8.</p> <p>2. No Member may require or compel any person not resident in its own territory 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 the provisions of this Article may be verified in another country by the authorities of the country of importation with the agreement of the producer and provided they give sufficient advance notice to the government of the country in question and the latter does not object to the investigation</p>	<p><u>Article 304. Method of valuation based on the adding of value.</u></p> <p>To determine the customs value of goods, as the basis shall be taken prices on goods, computed by way of adding:</p> <ol style="list-style-type: none"> 1) value of materials and expenses, incurred by the manufacturer in connection with production of the goods that are being valued; 2) usual expenses related to the sale (alienation) of goods of the same kind to Ukraine from the country of importation, including expenses for loading, weighing, transporting and insurance till the goods cross the customs border of Ukraine, and other expenses; 3) profits that the exporter usually receives as a result of delivery of such goods to Ukraine. <p>To determine the customs value under the method based on adding the value to the price of the goods, all expenses that are to be included in the price of goods under part two of article 299 of this Code shall be taken into account</p>	<p style="text-align: center;">+</p>

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<p style="text-align: center;">Article 7</p> <p>1. If the customs value of the imported goods cannot be determined under the provisions of Articles 1 through 6, inclusive, the customs value shall be determined using reasonable means consistent with the principles and general provisions of this Agreement and of Article VII of GATT 1994 and on the basis of data available in the country of importation.</p> <p>2. No customs value shall be determined under the provisions of this Article on the basis of:</p> <ul style="list-style-type: none"> (a) the selling price in the country of importation of goods produced in such country; (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 6; (e) the price of the goods for export to a country other than the country of importation; (f) minimum customs values; or (g) arbitrary or fictitious values. <p>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.</p>	<p><u>Article 305. Reserve method.</u></p> <p>If the customs value may not be determined by the Declarant by way of subsequent application of methods specified in Articles 298 — 304 of this Code, or a customs authority has reasons to believe that these methods of determining the customs value can not be applied, the customs value of the goods shall be determined according to the international practice.</p> <p>The customs value of the goods shall be determined by the reserve method on the basis of Ukrainian legislation, and must be consistent with principles and provisions of Article VII of General Agreement Tariffs and Trade (GATT) and Agreement on Application of Article VII of the General Agreement on Tariffs and Trade (GATT) of 1994.</p> <p>To determine the customs value by the reserve method, a customs authority must share the available information regarding prices with a Declarant.</p> <p>To determine the customs value by the reserve method, one may not use:</p> <ul style="list-style-type: none"> 1) the price of goods on the domestic market of the country of exportation; 2) the price of goods for export to a country other than the country of importation; 3) prices of Ukrainian goods on the domestic market of Ukraine; 4) voluntary established or unproven price of good; 5) production expenses, which differ from those that were used to determine prices of identical or similar (analogous) goods in accordance with provisions of Article 304 of this Code. 6) <u>minimal customs value;</u> 7) <u>the higher of two alternative values.</u> 	<p style="text-align: center;">+</p>

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<p style="text-align: center;">Article 8</p> <p>1. In determining the customs value under the provisions of Article 1, there shall be added to the price actually paid or payable for the imported goods:</p> <p>(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:</p> <p style="margin-left: 40px;">(i) commissions and brokerage, except buying commissions;</p> <p style="margin-left: 40px;">(ii) the cost of containers which are treated as being one for customs purposes with the goods in question;</p> <p style="margin-left: 40px;">(iii) the cost of packing whether for labour or materials;</p> <p>(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:</p> <p style="margin-left: 40px;">(i) materials, components, parts and similar items incorporated in the imported goods;</p> <p style="margin-left: 40px;">(ii) tools, dies, moulds and similar items used in the production of the imported goods;</p> <p style="margin-left: 40px;">(iii) materials consumed in the production of the imported goods;</p> <p style="margin-left: 40px;">(iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;</p> <p>(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;</p> <p>(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.</p>	<p><u>Article 299. The valuation method based on the transaction value of the imported goods.</u></p> <p>The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods imported into Ukraine at the moment of their crossing the customs border of Ukraine.</p> <p>To determine the customs value of goods, the following expenses shall be added to the transaction value, provided such expenses were not earlier included in the price:</p> <p>1) expenses on transportation of the goods to the airport, port or other place of entry of goods into the customs territory of Ukraine:</p> <p style="margin-left: 40px;">a) transportation costs;</p> <p style="margin-left: 40px;">b) expenses for loading, unloading and reloading of the goods;</p> <p style="margin-left: 40px;">c) insurance amounts;</p> <p>2) purchaser's expenses:</p> <p style="margin-left: 40px;">a) commission and broker's compensation, except commission for purchases of the goods;</p> <p style="margin-left: 40px;">b) costs of containers and other multiple-use packaging, which according to the commodity nomenclature, are to be considered as a part of goods being valued;</p> <p style="margin-left: 40px;">c) cost of packaging, including cost of packaging materials and works related to packaging;</p> <p>3) the relevant part of the value of such goods and services, which are directly or indirectly provided to the buyer free-of-charge or at a lower price, for production purposes or sale (alienation) of the goods that are being valued, provided that this part has not been included into the declared price:</p> <p style="margin-left: 40px;">a) raw materials, materials, parts, unfinished products and other parts that are the components of the goods being valued;</p> <p style="margin-left: 40px;">b) instruments, patterns, forms and other similar items, used in the production of goods being valued;</p> <p style="margin-left: 40px;">c) materials used in the production of goods being valued (lubricants, fuel, etc.);</p> <p style="margin-left: 40px;">d) engineering research, research and design services, design, decoration services, sketches and drawings, provided or made outside the customs territory of Ukraine and necessary for production of goods being valued;</p>	<p style="text-align: center;">+</p>

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994	Draft Customs Code of Ukraine ¹	Notes on compliance
<p>2. In framing its legislation, each Member shall provide for the inclusion in or the exclusion from the customs value, in whole or in part, of the following:</p> <p>(a) the cost of transport of the imported goods to the port or place of importation;</p> <p>(b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and</p> <p>(c) the cost of insurance.</p>	<p>4) licenses and other payments for the use of intellectual property objects, which the buyer (importer) directly or indirectly must pay under the terms of a sale (alienation) of the goods that are being valued;</p> <p>5) a part of proceeds of any subsequent resale, disposal or use in the territory of Ukraine of the goods being valued, accrued directly or indirectly to the seller.</p>	
<p>3. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.</p>	<p><u>Article 296. Rights and duties of a Declarant who declares the customs value of goods.</u></p> <p>The customs value of goods declared by a Declarant and the data related to such value and submitted by him, must be based on the accurate, documentary supported information, which is to be submitted in quantitative form.</p>	+
<p>4. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.</p>		
<p>Article 9</p> <p>1. Where the conversion of currency is necessary for the determination of the customs value, the rate of exchange to be used shall be that duly published by the competent authorities of the country of importation concerned and shall reflect as effectively as possible, in respect of the period covered by each such document of publication, the current value of such currency in commercial transactions in terms of the currency of the country of importation.</p> <p>2. The conversion rate to be used shall be that in effect at the time of exportation or the time of importation, as provided by each Member.</p>		
<p>Article 10</p> <p>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 by the authorities concerned who shall not disclose it without the specific permission of the person or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.</p>	<p><u>Article 295. Confidentiality of Information</u></p> <p>Information given by the declarant and defined as a confidential or representing a commercial secret can be used by the customs authority only for customs purposes and cannot be disclosed, transferred to a third persons, including other state authorities, without special permission of the declarant except when it is specified in the law.</p> <p>For the disclosure of information that presents a commercial secret or is confidential, the officers of customs authorities are responsible according to the legislation.</p>	+

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994	Draft Customs Code of Ukraine ¹	Notes on compliance
<p align="center">Article 11</p> <p>1. The legislation of each Member shall provide in regard to a determination of customs value for the right of appeal, without penalty, by the importer or any other person liable for the payment of the duty.</p> <p>2. An initial right of appeal without penalty may be to an authority within the customs administration or to an independent body, but the legislation of each Member shall provide for the right of appeal without penalty to a judicial authority.</p>		
<p>3. Notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing. The appellant shall also be informed of any rights of further appeal</p>	<p><u>Article 297. Rights and obligations of a customs authority in controlling the customs valuation of goods.</u></p> <p>A decision of a customs authority on determination of the customs value of goods may be appealed in accordance with the procedure established by law.</p>	+
<p align="center">Article 12</p> <p>Laws, regulations, judicial decisions and administrative rulings of general application giving effect to this Agreement shall be published in conformity with Article X of GATT 1994 by the country of importation concerned.</p>		

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994	Draft Customs Code of Ukraine ¹	Notes on compliance
<p style="text-align: center;">Article 13</p> <p>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 importer of the goods shall nevertheless be able to withdraw them from customs if, where so required, the importer provides sufficient guarantee in the form of a surety, a deposit or some other appropriate instrument, covering the ultimate payment of customs duties for which the goods may be liable. The legislation of each Member shall make provisions for such circumstances.</p>	<p><u>Article 296. Rights and duties of a Declarant who declares the customs value of goods.</u></p> <p><i><u>If verification of the customs value of goods declared by the declarant is needed, or in the case of disagreement of the declarant with the customs value determined by the customs authority, the declarant can apply to the customs authority with a request to release the goods for free circulation under the guarantee of the authorized bank, or to pay customs payments according to assessment performed by the customs authority. As the guarantee can be accepted a note of hand given by the declarant to the customs authority and endorsed by the authorized bank, or bank deposit.</u></i></p> <p><i><u>On giving by the declarant of the guarantee of the authorized bank, the customs authority is obliged to release goods for free circulation. In the case of effecting of the payments according to the customs valuation made by the customs authority and making the final decision by the customs authority of the higher level or by the court concerning application of the customs valuation, made by the declarant, the customs authority is obliged to compensate the amount of the excessively paid customs payments. The validation term of the warranty established in this Article couldn't excess 30 days from the moment of release of the goods for free circulation.</u></i></p>	
<p style="text-align: center;">Article 14</p> <p>The notes at Annex I to this Agreement form an integral part of this Agreement and the Articles of this Agreement are to be read and applied in conjunction with their respective notes. Annexes II and III also form an integral part of this Agreement.</p>		
<p style="text-align: center;">Article 15</p> <p>1. In this Agreement:</p> <p>(a) "customs value of imported goods" means the value of goods for the purposes of levying ad valorem duties of customs on imported goods;</p> <p>(b) "country of importation" means country or customs territory of importation; and</p> <p>(c) "produced" includes grown, manufactured and mined.</p> <p>2. In this Agreement:</p>		

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994	Draft Customs Code of Ukraine ¹	Notes on compliance
(a) "identical goods" means goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical;	See Article 300 of the draft Customs Code, cited previously	
(b) "similar goods" means goods 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;	See Article 301 of the draft Customs Code, cited previously	
(c) the terms "identical goods" and "similar goods" do not include, as the case may be, goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under paragraph 1(b)(iv) of Article 8 because such elements were undertaken in the country of importation;		
(d) goods shall not be regarded as "identical goods" or "similar goods" unless they were produced in the same country as the goods being valued; (e) goods produced by a different person shall be taken into account only when there are no identical goods or similar goods, as the case may be, produced by the same person as the goods being valued. 3. In this Agreement "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.	See Article 300 of the draft Customs Code, cited previously. See Article 301 of the draft Customs Code, cited previously.	

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994	Draft Customs Code of Ukraine ¹	Notes on compliance
<p>4. For the purposes of this Agreement, persons shall be deemed to be related only if:</p> <ul style="list-style-type: none"> (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 five per cent 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. <p>5. 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 for the purposes of this Agreement if they fall within the criteria of paragraph 4.</p>	<p><u>Article 299. The valuation method based on the transaction value of the imported goods.</u></p> <p>5) participants of the transaction (exporter and importer) are not related, except for situations <i>provided for by point 7 of part 3 of this article</i>. Persons are considered to be related when:</p> <ul style="list-style-type: none"> a) one of them (a physical person) is an official of both businesses involved in the transaction; b) they are partners in business; c) they are employer and employee; d) one party of the transaction owns 5 per cent or more of the outstanding voting stock or shares of another party's capital; e) both of them are directly or indirectly controlled by a third person; f) together they directly or indirectly control a third person; g) one of them directly or indirectly controls the other; h) they are members of the same family. <p>6) 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 if they fall within the criteria of item 5 of part three of this Article.</p>	
<p style="text-align: center;">Article 16</p> <p>Upon written request, the importer shall have the right to an explanation in writing from the customs administration of the country of importation as to how the customs value of the importer's goods was determined.</p>	<p><u>Article 297. Rights and obligations of a customs authority in controlling the customs valuation of goods.</u></p> <p>...</p> <p>A customs authority, upon a written request of the Declarant, is required, within a month, to provide the Declarant with written explanations regarding the reasons for the non-acceptance of the customs value of goods declared by the Declarant to the customs authority for assessing the customs fees.</p>	
<p style="text-align: center;">Article 17</p> <p>Nothing in this Agreement shall be construed as restricting or calling into question the rights of customs administrations to satisfy themselves as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.</p>		

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994	Draft Customs Code of Ukraine ¹	Notes on compliance
<p style="text-align: center;">PART II</p> <p style="text-align: center;">ADMINISTRATION, CONSULTATIONS AND DISPUTE SETTLEMENT</p> <p style="text-align: center;"><i>Article 18</i></p> <p style="text-align: center;"><i>Institutions</i></p> <p>1. There is hereby established a Committee on Customs Valuation (referred to in this Agreement as "the Committee") composed of representatives from each of the Members. The Committee shall elect its own Chairman and shall normally meet once a year, or as is otherwise envisaged by the relevant provisions of this Agreement, for the purpose of affording Members the opportunity to consult on matters relating to the administration of the customs valuation system by any Member as it might affect the operation of this Agreement or the furtherance of its objectives and carrying out such other responsibilities as may be assigned to it by the Members. The WTO Secretariat shall act as the secretariat to the Committee.</p> <p>2. There shall be established a Technical Committee on Customs Valuation (referred to in this Agreement as "the Technical Committee") under the auspices of the Customs Co-operation Council (referred to in this Agreement as "the CCC"), which shall carry out the responsibilities described in Annex II to this Agreement and shall operate in accordance with the rules of procedure contained therein.</p>		

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994	Draft Customs Code of Ukraine ¹	Notes on compliance
<p style="text-align: center;">Article 19 <i>Consultations and Dispute Settlement</i></p> <p>1. Except as otherwise provided herein, the Dispute Settlement Understanding is applicable to consultations and the settlement of disputes under this Agreement.</p> <p>2. If any Member considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the achievement of any objective of this Agreement is being impeded, as a result of the actions of another Member or of other Members, it may, with a view to reaching a mutually satisfactory solution of this matter, request consultations with the Member or Members in question. Each Member shall afford sympathetic consideration to any request from another Member for consultations.</p> <p>3. The Technical Committee shall provide, upon request, advice and assistance to Members engaged in consultations.</p> <p>4. At the request of a party to the dispute, or on its own initiative, a panel established to examine a dispute relating to the provisions of this Agreement may request the Technical Committee to carry out an examination of any questions requiring technical consideration. The panel shall determine the terms of reference of the Technical Committee for the particular dispute and set a time period for receipt of the report of the Technical Committee. The panel shall take into consideration the report of the Technical Committee. In the event that the Technical Committee is unable to reach consensus on a matter referred to it pursuant to this paragraph, the panel should afford the parties to the dispute an opportunity to present their views on the matter to the panel.</p> <p>5. Confidential information provided to the panel shall not be disclosed without formal authorization from the person, body or authority providing such information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of this information, authorized by the person, body or authority providing the information, shall be provided.</p>		

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994	Draft Customs Code of Ukraine ¹	Notes on compliance
<p style="text-align: center;">PART III SPECIAL AND DIFFERENTIAL TREATMENT <i>Article 20</i></p> <p>1. Developing country Members not party to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade done on 12 April 1979 may delay application of the provisions of this Agreement for a period not exceeding five years from the date of entry into force of the WTO Agreement for such Members. Developing country Members who choose to delay application of this Agreement shall notify the Director-General of the WTO accordingly.</p> <p>2. In addition to paragraph 1, developing country Members not party to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade done on 12 April 1979 may delay application of paragraph 2(b)(iii) of Article 1 and Article 6 for a period not exceeding three years following their application of all other provisions of this Agreement. Developing country Members that choose to delay application of the provisions specified in this paragraph shall notify the Director-General of the WTO accordingly.</p> <p>3. Developed country Members shall furnish, on mutually agreed terms, technical assistance to developing country Members that so request. On this basis developed country Members shall draw up programmes of technical assistance which may include, inter alia, training of personnel, assistance in preparing implementation measures, access to sources of information regarding customs valuation methodology, and advice on the application of the provisions of this Agreement.</p>		
<p style="text-align: center;">PART IV FINAL PROVISIONS <i>Article 21</i> <i>Reservations</i></p> <p>Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.</p>		

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<p align="center">Article 22 <i>National Legislation</i></p> <p>1. Each Member shall ensure, not later than the date of application of the provisions of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement.</p> <p>2. Each Member shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.</p>	<p><u>Article 305. Reserve method.</u></p> <p>If the customs value may not be determined by the Declarant by way of subsequent application of methods specified in Articles 299 — 304 of this Code, or a customs authority has reasons to believe that these methods of determining the customs value can not be applied, the customs value of the goods shall be determined according to the international practice.</p> <p>The customs value of the goods shall be determined by the reserve method on the basis of Ukrainian legislation, and must be consistent with principles and provisions of Article VII of General Agreement Tariffs and Trade (GATT) and Agreement on Application of Article VII of the General Agreement on Tariffs and Trade (GATT) of 1994.</p>	
<p align="center">Article 23 <i>Review</i></p> <p>The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The Committee shall annually inform the Council for Trade in Goods of developments during the period covered by such reviews.</p>		
<p align="center">Article 24 <i>Secretariat</i></p> <p>This Agreement shall be serviced by the WTO Secretariat except in regard to those responsibilities specifically assigned to the Technical Committee, which will be serviced by the CCC Secretariat.</p>		