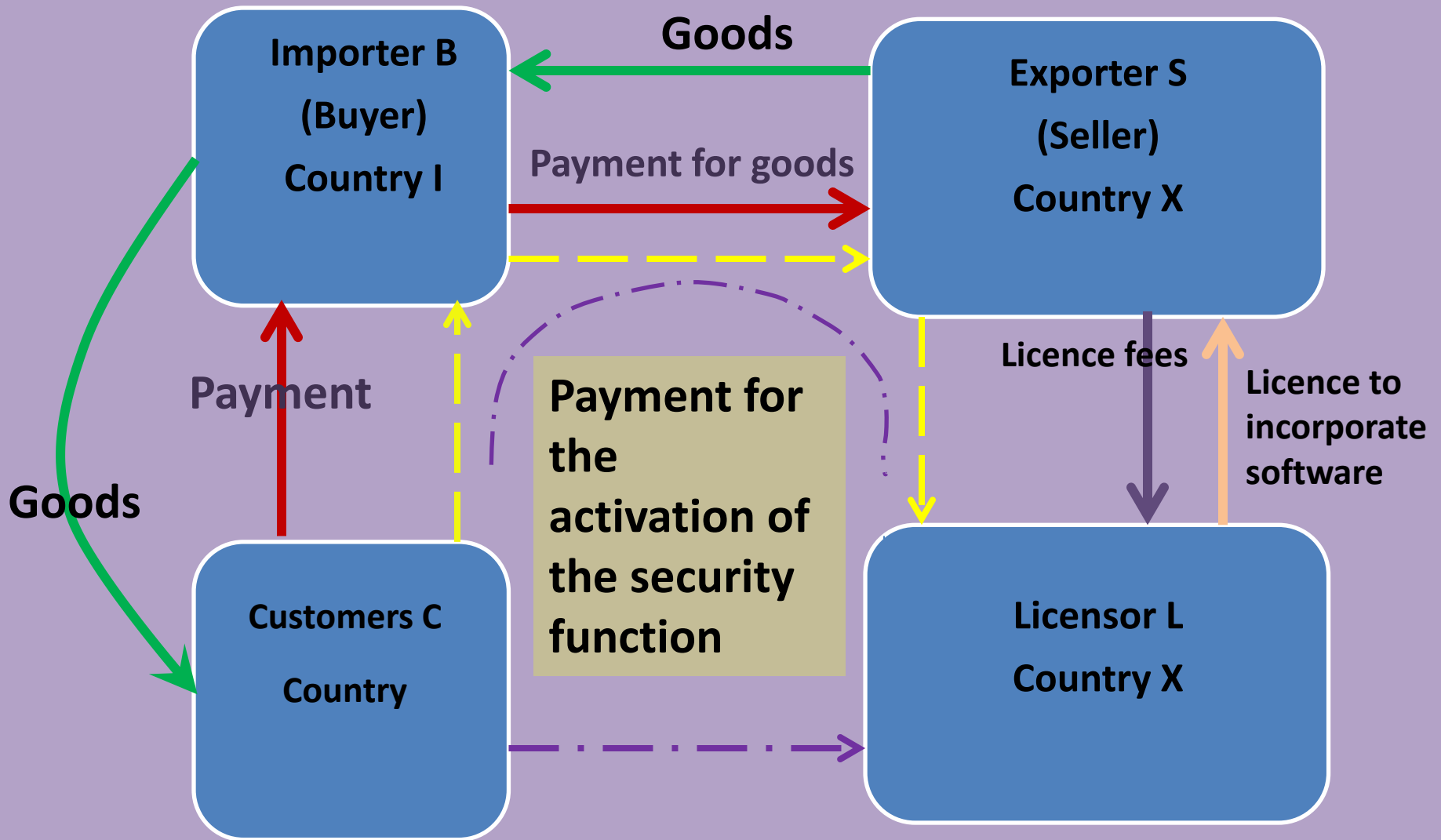


Facts of Case

- Importer B in country of importation I purchases and imports copiers from exporter (manufacturer) S in country of exportation X. S and B are not related under the terms of the Valuation Agreement.
- The copiers incorporate the software for an additional security function which prevents the leakage of document data. The security function, which is an optional component for individual customers in country I, has been locked and will not function without entering a password. However, the copiers perform their basic function without the security function being activated.
- The software for the security function was developed by licensor L in country X who is not related to B nor S. L owns the copyright of the software. S is given the license to incorporate the software into the copiers under the locked/inactivated condition. The license fees for the locked security function paid by S to L are fully reflected in the price actually paid or payable for the imported goods.

- After the importation of the copiers, B sells all the imported goods to customers C in country I. When C chooses to use the optional security function, C needs to purchase the password for the activation either directly from L through the internet (Route 1), or he must order the password via B and S from L (Route 2). In each payment method, C decides whether or not it will purchase the password after importation and Customs clearance of the goods.
- The sales agreement for copiers with the locked security function between S and B does not include any provisions concerning the payments for passwords.
- If C chooses to acquire the optional security function, the payment for the password is 10 c.u. and the same amount (10 c.u.) accrues to L in each payment method.
- All the provisions of Article 1.1 (a) to (d) are satisfied.



Question

- Should the payment for the passwords to activate the security function constitute part of the price actually paid or payable for the imported goods, or the payment be added to the price actually paid or payable for the imported goods under Article 8.1(c) or (d)?