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**BUSINESS CLIMATE
REFORM**



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CUSTOMS VALUATION

Applying Principles of the WTO Customs Valuation Agreement

Part 1

May 23-25

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Definition

- Customs valuation is the customs procedure used to determine the “customs value” of imported goods.
- Customs value is the value used to determine the duty on imported goods.
- Simple, right?



A brief history

- 1948 – GATT Agreement
- 1950 - Brussels Definition of Value
- 1979 - Tokyo Round Valuation Code



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More history

- 1994 – WTO Customs Valuation Agreement (Article VII of The General Agreement on Tariffs and Trade 1994)
- 1995 – GATT becomes WTO
- What happened in 2000?



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GATT

- General Agreement on Tariffs and Trade
- Both a multilateral trade agreement aimed at expanding international trade and the organization which oversees the agreement.
- The GATT organization has been succeeded by the WTO.



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The WTO

- The WTO is the only global international organization dealing with the rules of trade between nations.
- Goal: to help producers, exporters, and importers conduct their business.



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WTO Agreements

- WTO agreements are negotiated and signed by the bulk of the world's trading nations.
- WTO agreements are ratified in their parliaments.
- WTO agreements provide the legal ground-rules for international commerce.



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WTO Principles

- Trade without discrimination
- Freer trade
- Predictability
- Promoting fair competition
- Encourage development and economic reform



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WTO Functions

- Trade agreements and Trade negotiations
- Trade disputes
- Monitoring national trade policies
- Technical assistance and training
- Cooperation with other international organizations



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WTO Valuation Agreement

- Formally, the “Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, 1994”
- Handout 1 – Article 1



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Articles 1- 8

- Article 1: Definition of Transaction Value (to be read WITH article 8)
- Articles 2 – 7: Methods of determining the customs value whenever it cannot be determined under Article 1
- Article 8: Adjustments and other considerations to be included in TV



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**BUSINESS CLIMATE
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Hierarchy of Valuation

- Transaction Value
- Transaction Value of Identical Merchandise
- Transaction Value of Similar Merchandise
- Deductive Value
- Computed Value
- Fallback Method

Slide 13

MS4

I added this slide here. Transaction Value is only the first method of valuation.

Mark, 8/10/2005



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What is Transaction Value?

- The price actually paid or payable for the merchandise when sold for exportation to your country, plus amounts equal to packing costs, selling commission, the value of any assist, royalties or license fees, and the proceeds of subsequent resale accruing to the seller.



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BUSINESS REFORM MS19 **MATE**

TV = PAPP + sCRAPP U1

- Transaction Value = Price Actually Paid or Payable + Selling Commissions, Royalties, Assists, Proceeds, and Packing

Slide 15

MS19 I move this slide to immediately after you defined TV or incorporate it into that slide.

I'd repeat this "equation" after the talk of PAPP is done and then go through all the Article 8 additions

Hopefully, something similar can be done with this in Romanian!

Mark, 8/10/2005

U1 Is the capitalization correct?

User, 6/29/2007

U2 Do you want this sentence "Claudia.....Romanian?" in the slide?

User, 6/29/2007



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Price actually paid or payable MS3

- The Price Actually Paid or Payable is the total payment made, or to be made, from the buyer to the seller for the imported goods when sold for export.
 - Total payment includes direct and indirect payment
 - "To Be Made" or "Payable" can not be verified at the time of importation
 - Rebates and discounts can be tricky

Slide 16

MS3 "The transaction value is the" would be more appropriate here.

However, this sentence only repeats what transaction value is. I would use the following:

The Price Actually Paid or Payable is the total payment made, or to be made, from the buyer to the seller for the imported goods when sold for export.

-Total Payment includes DIRECT AND INDIRECT payment

- "To Be Made" or "Payable" can not be verified at the time of importation

-Rebates and Discounts can be tricky

Mark, 8/10/2005



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Direct & Indirect Payment

- Direct Payment – Financial compensation whether it is cash, electronic, letter of credit, bonds, travelers checks, etc.
- Indirect Payment –
 - Debt Cancellation (for any reason)
 - Payment to a third party on behalf of the seller
 - Agreeing to not accept a refund for previously purchased merchandise that was damaged or unacceptable in return for a reduced cost

Slide 17

MS7

I added this slide to expand on "direct and indirect" of PAPP

Mark, 8/10/2005



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BUSINESS REFORM MS8 **CLIMATE**

Rebates and Discounts

- The Price Actually Paid or Payable is determined when sold for export.
- Rebates and Discounts occurring after the sold goods are exported do not affect the PAPP EXCEPT when:
 - The Price Actually Paid or Payable is dependent upon the method or time of payment itself

Slide 18

MS8

I added this slide too

Mark, 8/10/2005



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MS9

Rebate/Discount Example 1

- The price of an imported good is \$10 per unit if paid for electronically. There is a \$1 discount per unit if paid for with cash. The buyer pays for the goods in cash after export.
- What is the PAPP?

Slide 19

MS9 Added this but I would need a copy of their laws to makes sure I didn't contradict anything.

Mark, 8/10/2005

U3 Do you want Mark 8/10/05 note included in slide?

User, 6/29/2007



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Rebate/Discount Example 2

- The price of a good is \$10 per unit. The seller agrees that if the buyer uses the seller's related bank for payment, the seller would refund \$1 per unit to the buyer. The buyer uses the seller's related bank once the goods cleared entered the destination country. The seller refunds \$1 per unit to the buyer.
- What is the PAPP?

Slide 20

U4

Again, do you want Mark's comments included in the slide?

User, 6/29/2007



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Rebate/Discount Example 3

- The price of a good is \$10 per unit. The seller agrees that if the buyer uses the seller's related bank for payment, the seller would refund \$1 per unit to the buyer. Payment is made to the seller's related bank and the refund is given to the buyer before the goods are exported.
- What is the PAPP?

Slide 21

U5

Another note from Mark...should it be deleted?

User, 6/29/2007



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MS11

Rebate/Discount Example 4

- The price of a good is \$100 per unit. The seller agrees to give a 10% discount if the buyer pays within 10 days of receipt and a 5% reduction if paid for within 15 days. The seller pays for the goods 12 days after receipt. What is the PAPP?

Slide 22

MS11

Same comment as previous slide

Mark, 8/10/2005



Transportation Charges

- Each country using the Valuation Agreement shall provide for the inclusion in or exclusion from the Customs value, in whole or in part, of:
 - The cost of transport to the place of importation
 - Loading and handling charges
 - Insurance costs
- How do you handle these costs?



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Incoterms

- Internationally accepted commercial terms that define the roles of the buyer and seller in the arrangement of transportation and other responsibilities
- Clarify when the ownership of the merchandise takes place.
- Used in conjunction with a sales agreement or other method of transacting the sale.



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Incoterms

- Some Incoterms are specific to the mode of shipping.
- They are specifically concerned with what party is responsibility for the shipment between the seller and the buyer
- Normally, a location is added to the Incoterm to define a particular location where responsibility of shipping is transferred (e.g., FOB Hong Kong)



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BUSINESS REFORM MS10 **MATE**

TV = PAPP + sCRAPP U6

- Transaction Value = Price Actually Paid or Payable + Selling Commissions, Royalties, Assists, Proceeds, and Packing

Slide 26

MS10 I move this slide to immediately after you defined TV or incorporate it into that slide.

I'd repeat this "equation" after the talk of PAPP is done and then go through all the Article 8 additions

Mark, 8/10/2005

U6 REPEAT SLIDE. IDENTICAL TO #15

User, 6/29/2007



TV = PAPP + sCRAPP

- Article 8 Adjustments
- Commissions
- Packing
- Assists
- Royalties and license fees
- Subsequent proceeds

MS5

MS6

Slide 27

MS5 I would hesitate in using the word "brokerage" in teaching valuation. I think they mean brokerage in the sense of a middleman or agent involved in the transaction. Customs Brokerage costs are not added to the TV. At least in the States it's not. Customs Brokerage costs would not be a Transaction cost. If it was, then duty payments should be added too and I don't think there's a country in the world that would do that. Maybe Romania's different? Would need to check their laws.

Mark, 8/10/2005

MS18 Article 8 is CRAPP. Throw the equation $TV = PAPP + CRAPP$ in the Heading to remind them what you're talking about

Mark, 8/10/2005

MS6 Again, "containers" may be a bad word because someone could imply that this includes the full value of the cargo container. It doesn't unless the importer is actually buying the cargo container which is probably never. What if it's a large piece of machinery packed in a truck? Add the value of the truck? I really think they mean containers only in a packing sense.

Mark, 8/10/2005

U7 User, 6/29/2007



Selling Commissions

- Selling commissions, paid to the seller's agent are added to the Price Actually Paid or Payable (TV = PAPP + sCRAPP) U8
- Buying commissions, paid to the buyer's agent, are not.
- It's possible that a transaction has both.

U8

Again, please check on the capitalization

User, 6/29/2007



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MS14

Selling or buying commission?

- Most declarations will deduct the “commission” from the entered value since the invoice will not state whether it is a buying or selling commission.
- It is Customs’ job to verify the deduction but the importer’s job to prove the deduction.

Slide 29

MS14

THIS IS EXCELLENT! Where did you get this?

Mark, 8/10/2005



More on agents

- Who is paying the agent?
- What about independent agents?



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Royalties & Licensing Fees

- Royalty or license fees that a buyer must pay, directly or indirectly, as a condition of the sale of the imported merchandise for exportation to Georgia will be included in the transaction value.
- (TV = PAPP + sCRAPP)

U9

U9

Capitalization?

User, 6/29/2007



Assists

- Assists include:
 - Materials, components, parts, and similar items
 - Tools, dies, molds, and similar item
 - Merchandise consumed
 - Engineering, development, artwork, design work, and plans and sketches done outside Georgia
- $TV = PAPP + sCRAPP$

U10
U11

Slide 32

- U10** User, 6/29/2007
- U11** Capitalization?
User, 6/29/2007



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The value of assists

- The cost of acquiring the assist, if acquired from an unrelated seller, or
- The cost of producing the assist, if produced by the importer or a person related to the importer.



Design Assists

- The value of engineering, development, artwork, design work, and plans and sketches is:
 - the cost of obtaining copies in the public domain;
 - the cost of the purchase or lease; or
 - the value added outside Georgia



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Example 1

- A local buyer supplied detailed designs to the foreign producer. These designs were necessary to manufacture the imported merchandise. The importer bought the designs from an engineering company here for submission to his foreign supplier. Should the appraised value of the merchandise include the value of the assist?



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MS15

Example 2

- A local buyer purchases merchandise from a foreign producer. The price actually paid or payable includes the cost of design made here and incorporated in the merchandise. Is there any authority to deduct the cost of the design from the price actually paid or payable?

Slide 36

MS15

On your instructor notes, the key point that needs to be made here is that the design work was NOT provided to the seller for free or at a reduced cost.

Mark, 8/10/2005



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Example 3

- A local buyer supplied molds free of charge to the foreign seller. The molds were necessary to manufacture the merchandise. The importer had some of the molds manufactured by a local company and others manufactured in a third country. Should the appraised value of the merchandise include the value of the molds?

Slide 37

MS16

Good time to point out that only DESIGN assists take into consideration whether they were domestically produced. The country of origin for all other assists does not matter, even if it's domestically produced

Mark, 8/10/2005



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Apportioning Assists

- Having determined the value of an assist, the next step is to apportion that value to the imported merchandise.
- The apportionment is done reasonably and according to generally accepted accounting principles.



Proceeds Accruing to Seller

- Any proceeds resulting from the subsequent sale, disposal, or use of the imported merchandise that accrue directly or indirectly to the seller are dutiable.
- (TV = PAPP + sCRAPP) U12

U12

Capitalization?

User, 6/29/2007



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MS17

Packing Costs

- Packing costs means the cost of all packing for delivery to the importer.
- $TV = PAPP + sCRAPP$

U13

Slide 40

MS17 I really think they mean all packing for delivery to the importer. "Of whatever nature" worries me. See previous note about this.
Mark, 8/10/2005

U13 Capitalization

Again, another comment from Mark...keep it?
User, 6/29/2007



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Limitations on use of TV

- Restrictions on the disposition or use.
- Conditions for which a value cannot be determined.
- Proceeds of subsequent resale, disposal or use, accruing to the seller, for which an appropriate adjustment cannot be made.
- Related-party transactions where the transaction value is not acceptable.



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Restrictions on use of the goods

- There are some restrictions on the disposition or use of the imported goods are acceptable and the price actually paid or payable would still be acceptable



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Related Parties

- Officers or directors of each other's business
- Partners in business
- Employer and employee
- Any person owns 5% of each
- One controls the other
- Both are controlled by a third party
- Members of the same family



What is “Acceptable”?

- The term “acceptable” means that the relationship between the buyer and seller did not influence the price actually paid MS20 payable
- At the request of Customs, the importer is obliged to prove acceptability

Slide 44

MS20

The key here is that related party transactions can be valued under TV if they are performed at "arm's length." This can happen often. When I was with GE, we interacted with many other GE companies but some of them could give a rat's ass that we were related and they wanted their business group (company) to make a profit. No influence on the price there. Then again, some business groups did when the final product was a joint-effort to create and sell.

Mark, 8/10/2005



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What is “Acceptable”?

- “Acceptable” can also mean that the transaction value closely approximates any one a test value



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Test Values

- Provided by the importer
- There is no definitive high/low percentage threshold in accepting test values (but Customs must be consistent)
- Can not be used as a substitute method of valuation
- Values must come from current or recent prices



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Test Value Factors

- Nature of the imported good and industry
- Season that it was imported
- Factors from the exporting country that affect value - transport costs, taxes and fees, etc
- Quantity discounts
- Article 8 additions to the PAPP
- Whether the difference in value is commercially significant



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Test Value Example #1

- Levan buys a 2003 VW Passat from his brother who is a car dealer in Germany for 15,000 Euros. Customs questions this value and Armand's brother shows documentation that he sold a 2001 VW Passat to an unrelated person last month for 12,000 Euros. Both cars are similar models and in similar condition. His information also shows that VW vehicles usually depreciate 10% in value each year. Is the Transaction Value of this related party transaction acceptable?



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Test Value Example #2

- A local importer buys T-shirts from China at 3 Euros per piece. The president of the Chinese manufacturing company owns 25% of the importing company. The Chinese manufacturer specializes in Reebok merchandise and provides his general price list and shows that he has sold to unrelated importers in this country. The price of the T-shirt in question is listed as 5.50 Euros. However, the questioned declaration was an exception since the goods did not bear any logos. The Chinese manufacturer also shows that they pay Reebok Inc. 2 Euros per logo placed on a T-shirt. Is Transaction Value acceptable?



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Test Value Example #3

- A related party transaction of 500 beach umbrellas at \$10 a piece is questioned by Customs. The importer shows that he had imported 1,000 similar beach umbrellas from an unrelated supplier six months ago at \$9 a piece. However, the importer also provides supporting documentation that the \$9 purchase was discounted by 10% by the unrelated seller for purchases over 750 units. Is Transaction Value acceptable in this related party transaction?



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Transaction Value Conclusions

$$TV = PAPP + sCRAPP$$

U14

- Price Actually Paid or Payable may still need to be adjusted for indirect costs, transportation charges, or discounts
- Commissions are dependant upon the relationship between the agent and buyer / seller
- Royalties and Assists must be added if they are applicable
- Packing Costs are always added if they are not already a part of the purchase price

U14

Capitalization?

User, 6/29/2007