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# **CUSTOMS VALUATION**

## **Applying Principles of the WTO Customs Valuation Agreement**

### **Part 2**

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## **What if Customs determines that Transaction Value is not applicable?**

- Customs has the right to satisfy itself as to the truth and accuracy of any statements, documents or declarations
- WTO's "Decision Regarding Cases Where Customs Administrations Have Reason to Doubt the Accuracy of the Declared Value"
- Communication with the importer is essential



## Review of when Transaction Value is not acceptable

- Restrictions or Conditions on the Sale of the Goods
- No Price Actually Paid or Payable
  - Consigned or bartered goods
  - No sale for export
- Related Party Transaction Which Influenced the Price
  - Obvious influence in price and;
  - Test value failure
- Article 8 Additions or Indirect Costs Are Not Quantifiable
  - Indefinite Amounts
  - Unquantifiable additions



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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



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## Articles 2 and 3

- Where the customs value cannot be determined under the provisions of Article 1 it should consult with the importer to arrive at a basis of value under the provisions of Article 2 or 3:
  - Article 2: Transaction Value of Identical Goods
  - Article 3: Transaction Value of Similar Goods



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## Identical Goods

- When the transaction value of imported goods cannot be determined, the next method is to appraise the goods based on the transaction value of identical merchandise.



## Identical Goods

- The customs value is calculated in the same matter on identical goods if they are:
  - the same in all respects (except minor differences,)
  - produced in the same country,
  - produced by the producer of the goods being valued (if available),
  - sold for export to same country, and
  - exported at or about the same time



## Flexibility in Defining Identical Goods

- where there are no identical goods produced by the same person, identical goods produced by a different person in the same country may be taken into account.
- minor differences in appearance would not preclude goods from being regarded as identical.



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## Similar Goods

- If merchandise identical to the imported goods cannot be found, then the customs value is based on the transaction value of similar merchandise.



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## Identical or Similar?

- Identical goods are the same in all respects, produced in the same country, produced by the producer of the goods being valued, sold for export to same country, and exported at or about the same time
- Similar goods, 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.



## Similar Goods

- The transaction value is calculated in the same manner on similar goods if they:
  - closely resemble the goods
  - perform the same functions (**commercially interchangeable**)
  - are produced in the same country by the same producer
  - are sold to the same country of importation and exported at or about the same time



## In choosing between Identical and Similar Goods

1. Identical Goods, same producer
2. Identical Goods, different producer
3. Similar Goods, same producer
4. Similar Goods, different producer
  - Goods must still have the same country of origin (production)
  - No domestic assists (engineering)
  - “Lowest available” comparison only applies within one of these hierarchical choices.



## **TV of Identical and Similar Example #1**

- A 2002 Corvette in decent condition is sold for import to your country. The buyer purchased the vehicle from his brother in the Netherlands for \$2000 before driving it to to your country
- The buyer is not able to supply any further information and Customs has no records of Corvettes being imported under Transaction Value
- A local database of vehicular values shows that the Corvette is worth at least \$15,000
- How should you value the vehicle?



## TV of Identical and Similar Example #2

- A new Cuban cigar manufacturer wishes to enter the your market. As such, they agree with a local distributor to ship the goods on consignment. The distributor shows that within the last 30 days he purchased the following same sized Cuban cigars appraised under TV:
  - Humidors - \$25 a piece
  - Cohibas - \$17 a piece
  - Romeo y Julietta - \$10 a piece
- You send a sample of the new cigar to the laboratory and find that the quality is most similar to the Cohiba cigar.
- What value do you use?



## **TV of Identical or Similar Example #3**

- A large local producer of wine purchases 50 Dell laptop computers, Model XYZ, from China for \$750 a piece. As a part of the agreement, the Chinese seller agrees to buy 1,000 bottles of the importer's wine.
- Customs questions the value and the importer is able to present information that they recently purchased 10 Hewlett Packard computers from China with nearly identical features at \$800 a piece. They also show that in the initial offer, a 10% discount would have been offered if they purchased more than 25 laptops.
- What is the Customs value?



## **TV of Identical or Similar Example #4**

- Same scenario as Example #3
- Dell Model XYZ, at \$750 per unit sold under a condition of sale
- Import of similar Hewlett Packard laptops at \$800 (with a 10% quantity discount)
- The same day as you receive the response from the importer, you run across a declaration of Dell Computers from the same manufacturer in China, Model ABC, for \$1,250 per unit acceptable under Transaction Value.
- You research Dell computers on the internet and find that the only difference between ABC and XYZ is the weight and other minor features.
- What is the Customs value?



## Article 4

- 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.



## Deductive Value

- Based on the resale price in your country after importation of the goods, with deductions for certain items.
- Generally, the deductive value is calculated by starting with a unit price and making certain additions to and deductions from that price.



## Deductions

- Commissions or additions for profits and general expenses
- Duties & taxes
- Value of further processing
- Packing



## Profit and General Expenses

- Of the same class or kind in the country of importation
- Acceptable General Expenses:
  - Labor
  - Overhead & Utilities
  - Marketing
  - Services (contracting, legal, accounting, etc.)



## Deductive Value

### Example #1

- A shipment of Maglite flashlights do not qualify for TV or TV of Identical or Similar Goods.
- The importer provides you with the following information:
  - They are sold to retailers at \$5 a piece
  - Under agreement, the importer receives \$1 a piece per Maglite sold
  - The general expenses and profit of the importer averaged to 50 cents per Maglite sold.
  - The importer paid 25 cents per Maglite to label it in Georgian.
  - The total duties and taxes on flashlights from America is 25%
- What is the Customs value?



## Deductive Value

### Example #1 continued

- **\$5.00 – 50 cents GE&P – 25 cents labeling = \$4.25**
- **Duties and taxes are 25%**

**X = Customs Value**

$$\mathbf{X + (X * 0.25) = \$4.25}$$

$$\mathbf{\$4.25 / 1.25 = \$3.40}$$



## Deductive Value Example #2

- An importer fails to demonstrate that any Transaction Value can be applied to his shipment of 1,000 widgets.
- Upon request the importer provides you with the following sale prices of the widgets:
- Can you use deductive value?

Sale Price	Quantity Sold
100 Lari	250
125 Lari	340
150 Lari	260
200 Lari	150



## Deductive Value Example #2 Continued

- You meet with the importer and find that he sells some of his products to related retailers. You ask for a detailed account and are provided with the following:
- Can you still use deductive value

Sale Price	Total Quantity Sold	Quantity Sold to Related Party
100	250	200
125	340	100
150	260	0
200	150	0



## Computed Value

- Computed value is the sum of the following elements:
  - Materials, fabrication, and other processing used in producing the imported merchandise
  - Profit and general expenses
  - Any assist, if not included above
  - Packing costs



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## Production Cost

- Production cost = value of materials and fabrication



## Profit and General Expenses

- Profit
- General Expenses
- Other Expenses



## Computed Value

### Example #1

- A local importer of furniture presents a declaration of 1,000 wooden chairs from a related seller. No other valuation method is acceptable.
- The importer provides the following data directly from the manufacturer for computed value:
  - Wood, Brackets, and Screws = \$3.00
  - Cushioning = \$1.00
  - Assembly Cost = \$1.00
  - Designs provided by the Georgian importer = \$1.00
  - Manufacturer Production Expenses and Profit = \$1.00
  - Packing and Shipping = \$1.00
- What is the computed value, if any?



## Computed Value Example #2

- Customs has determined that the deductive value of a declaration is 100.000
- The importer provides VALID information that the computed value of the declaration is 90.000
- The importer reminds Customs that Article 4 of the WTO agreement gives the importer the right to reverse Deductive and Computed Value.
- Furthermore, the importer argues that using the higher of two values is also prohibited.
- How should Customs determine the value?



## Fallback Method

- Article 7: 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.



## Valuation criteria not to be used

- Customs value shall NOT be determined by:
  - the selling price of good produced in the country of importation
  - the higher of two alternative values
  - the price of goods on the domestic market of the country of exportation
  - the price of goods for export to a country other than the country of importation
  - minimum Customs values or arbitrary or fictitious values



## Currency Conversion

- Article 9: 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



## Confidentiality

- Article 10: 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...



## Appeals and Rulings

- Article 11: 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.



## Guarantee to Gain Release

- Article 13: 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...



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## In Summary

- Same method used by all WTO members
- Transparent with specific rules on application
- Duty calculated on price actually paid
- Represents true commercial practice
- Predictable and standard
- Promotes international trade
- Generates more revenue as trade increases
- Promotes compliance through greater Customs and trade partnership



## Disputes with Importers on Valuation Issues

- How does Georgian Customs address valuation issues today?
  - Verifying the value of the declaration
  - Asking for more information
  - Disagreements with the Importer
  - Ensuring uniformity and consistency



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## Back to reality

- Practical Exercise:
- We will divide the class into small groups.
- Each group will research a recent valuation problem (one that occurred in the last 3 months)
- Each group will present that problem to the entire class



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## Presentations

- Summarize the problem
- Identify the issues
- Explain the challenges in coming to a resolution
- Explain how the problem was resolved



## Presentations

- Explain whether or not – in the group’s opinion – the resolution was consistent with the principles of GATT valuation.
- If so, why? If not, why?
- Summarize the communications between Customs and the importer that led to the decision
- What could have been done better?



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## Presentation Format

- Informal
- Group will elect a spokesperson
- Presentations will be oral
- Other groups will be allowed to ask questions.



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## Assignment

- You have all day tomorrow to work with your group on your selected valuation problem.
- You may do more than one
- We will meet here at 10:00 am Friday
- Presentations will begin after the first coffee break