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# **The Provisions of the WTO CUSTOMS VALUATION AGREEMENT and relevant articles of the Egyptian Customs Law and Executive Regulations**

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## BASED ON THE TRANSACTION VALUE OF THE GOODS

1. The price actually paid or payable for the goods when sold for export to Egypt.
  - ✓ no substantive restriction permitted on buyer's disposition or use of the goods
  - ✓ any subsequent proceeds to the seller must be accounted for as part of the value of the goods
- A transaction value between related parties is acceptable if certain conditions are met.
- If the transaction value cannot be established, Customs must apply prescribed alternative valuation methods in sequence to determine an equivalent value.

WTO Customs Valuation Agreement article 1(1)

Executive Regulations articles 14, 17, 19, 22-28



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## TRANSACTIONS BETWEEN RELATED PARTIES

- Persons are deemed to be “related” if:
  - ✓ they are officers or directors of one another’s businesses
  - ✓ they are legally recognized partners in business
  - ✓ they are employer and employee
  - ✓ any person directly or indirectly owns, controls or holds 5% or more of the shares of both of them
  - ✓ one directly or indirectly controls the other
  - ✓ both directly or indirectly are controlled by a 3rd person
  - ✓ together they directly or indirectly control a 3rd person
  - ✓ they are members of the same family

WTO Customs Valuation Agreement article 15(4)

Executive Regulations article 18



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## TRANSACTIONS BETWEEN RELATED PARTIES

- The transaction value (or transfer price) shall be accepted if it closely approximates one of the following occurring at the same or nearly the same time as importation:
  - ✓ the transaction value in sales to unrelated buyers of identical or similar goods for export to Egypt
  - ✓ the transaction value of identical or similar goods determined by the deductive value method
  - ✓ the transaction value of identical or similar goods determined by the computed value method

WTO Customs Valuation Agreement article 1(2)(b)

Executive Regulations article 19 (except that reference is made to articles 22 and 23, not 25 and 26)

- *The time frame presented in article 19 (within 60 days before or after exportation) differs from the WTO definition of “the same or nearly the same time period” (during the 90 days following importation)*



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## ALTERNATIVE METHODS WHERE TRANSACTION VALUE OF THE GOODS CAN'T BE DETERMINED

2. The transaction value of identical goods sold for export to Egypt at the same time.
  - ✓ should be at the same commercial level and in substantially the same quantity as the goods being valued
  - ✓ if no such transaction is available, a transaction value for identical goods at a different trade level and/or in different quantities shall be used, subject to appropriate adjustments to account for differences
  - ✓ if more than one such transaction is available, the lowest value shall be used

WTO Customs Valuation Agreement article 2

Executive Regulations article 22



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## ALTERNATIVE METHODS WHERE TRANSACTION VALUE OF THE GOODS CAN'T BE DETERMINED

- “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.

WTO Customs Valuation Agreement article 15(2)

Executive Regulations article 1



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## ALTERNATIVE METHODS WHERE TRANSACTION VALUE OF THE GOODS CAN'T BE DETERMINED

3. The transaction value of similar goods sold for export to Egypt at the same time.
  - ✓ should be at the same commercial level and in substantially the same quantity as the goods being valued
  - ✓ if no such transaction is available, a transaction value for similar goods at a different trade level and/or in different quantities shall be used, subject to appropriate adjustments to account for differences
  - ✓ if more than one such transaction is available, the lowest value shall be used

WTO Customs Valuation Agreement article 3

Executive Regulations article 23



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## ALTERNATIVE METHODS WHERE TRANSACTION VALUE OF THE GOODS CAN'T BE DETERMINED

- “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.

WTO Customs Valuation Agreement article 15(2)

Executive Regulations article 1



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## ALTERNATIVE METHODS WHERE TRANSACTION VALUE OF THE GOODS CAN'T BE DETERMINED

4. A deductive value, being the price at which identical or similar imported goods are sold in Egypt in the greatest aggregate quantity to an unrelated purchaser at or about the same time as the importation being valued, subject to deductions for:
  - ✓ sales commissions, profit and general expenses
  - ✓ costs of transportation, insurance and associated costs in Egypt
  - ✓ customs duties and other import or sales taxes

WTO Customs Valuation Agreement article 5

Executive Regulations article 25



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## ALTERNATIVE METHODS WHERE TRANSACTION VALUE OF THE GOODS CAN'T BE DETERMINED

5. A computed value consisting of the sum of:
- ✓ the cost or value of materials and fabrication or other processing used in producing the imported goods
  - ✓ 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 Egypt
  - ✓ the cost of transportation, insurance and other charges, to the extent they are required to be incorporated into the customs value

WTO Customs Valuation Agreement article 6

Executive Regulations article 26



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## ALTERNATIVE METHODS WHERE TRANSACTION VALUE OF THE GOODS CAN'T BE DETERMINED

- The order of consideration of the deductive value method and the computed value method may be reversed at the option of the importer.

WTO Customs Valuation Agreement article 4

Executive Regulations article 24



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## ALTERNATIVE METHODS WHERE TRANSACTION VALUE OF THE GOODS CAN'T BE DETERMINED

### 6. The residual valuation method:

If the customs value cannot be determined by any of the methods provided, the customs value shall be determined using reasonable means consistent with the principles and provisions of the WTO Customs Valuation Agreement

WTO Customs Valuation Agreement article 7(1)

Executive Regulations article 27



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## PROHIBITED VALUATION METHODS

- Customs value shall NOT be determined by:
  - ✓ the selling price in Egypt of goods produced in Egypt
  - ✓ 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 Egypt
  - ✓ minimum customs values
  - ✓ arbitrary or fictitious values

WTO Customs Valuation Agreement article 7(2)

Executive Regulations article 28



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## REQUIRED ADJUSTMENTS TO TRANSACTION VALUE TO DETERMINE CUSTOMS VALUE

- Add the following, to the extent they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
  - ✓ commissions and brokerage, except buying commissions
  - ✓ the cost of containers which are treated as being one for customs purposes with the goods in question
  - ✓ the cost of packing whether for labour or materials

WTO Customs Valuation Agreement article 8(1)(a)

Executive Regulations article 14(a), 14(b) and 14(c)



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## REQUIRED ADJUSTMENTS TO TRANSACTION VALUE TO DETERMINE CUSTOMS VALUE

- Add the value of the following, where supplied directly or indirectly by the buyer free of charge or at a reduced cost for use in connection with the production of the imported goods (“ASSISTS”), to the extent not included in the price paid or payable:
  - ✓ incorporated materials, components, parts, etc.
  - ✓ tools, dies, moulds, etc.
  - ✓ consumables used in production
  - ✓ engineering, development, artwork, design work undertaken elsewhere than Egypt

WTO Customs Valuation Agreement article 8(1)(b)

Executive Regulations article 14(d)



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## REQUIRED ADJUSTMENTS TO TRANSACTION VALUE TO DETERMINE CUSTOMS VALUE

- Add 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 paid or payable.
- Add the value of any proceeds of subsequent sale, disposal or use of the imported goods that accrues directly or indirectly to the seller.

WTO Customs Valuation Agreement article 8(1)(c) and 8(1)(d)

Executive Regulations article 14(e) and 14(f)



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## REQUIRED ADJUSTMENTS TO TRANSACTION VALUE TO DETERMINE CUSTOMS VALUE

- Additions to the price actually paid or payable shall be made only on the basis of objective and quantifiable data.
- No additions shall be made to the price actually paid or payable in determining the customs value except as provided in Article 8 of the WTO Customs Valuation Agreement.

WTO Customs Valuation Agreement article 8(3) and 8(4)

Executive Regulations article 15



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## TREATMENT OF INTERNATIONAL TRANSPORTATION CHARGES

- Each country using the WTO Customs Valuation Agreement shall provide for the inclusion in or exclusion from the customs value, in whole or in part, of:
  - ✓ the cost of transport of the imported goods to the port or place of importation
  - ✓ loading, unloading and handling charges
  - ✓ insurance costs

WTO Customs Valuation Agreement article 8(2)

Executive Regulations article 14(g)

- *The cost of transport and insurance of the imported goods and relevant costs of loading, discharge and handling associated with the transport of the imported goods to the port of destination are included in the Customs value of goods imported into Egypt.*



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## THE VALUE FOR CUSTOMS PURPOSES DOES NOT INCLUDE THE FOLLOWING ITEMS:

- ✓ the cost of transport after importation
- ✓ duties and taxes imposed in Egypt
- ✓ charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods
- ✓ buying commissions
- ✓ The costs of marketing activities within Egypt, related to marketing the imported goods being valued.
- ✓ The costs of engineering and plans undertaken in Egypt and related to marketing the imported goods being valued.
- ✓ The costs related to the right to remanufacture the imported goods in Egypt.

(continued)



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## THE VALUE FOR CUSTOMS PURPOSES DOES NOT INCLUDE THE FOLLOWING ITEMS (continued):

- ✓ Interest paid on a financing contract signed by the buyer, whether financing is provided by the seller or by another party, provided that this contract is presented to the competent Customs Valuation Directorate.
- ✓ Share profits paid by the buyer to the seller.

On condition that these costs are stated separately and are distinguished from the price actually paid or payable for the imported goods.

WTO Customs Valuation Agreement article 1(EN), 8,

WTO Valuation Committee decision on treatment of interest

Executive Regulations article 16



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## TREATMENT OF CURRENCY CONVERSION

- Each country using the WTO Customs Valuation Agreement shall publish the rates of exchange to be used in the conversion of currency.
  - ✓ must reflect, as far as possible, the current value of currencies in commercial transactions
- The conversion rate to be used may be defined as that in effect at the time of exportation or at the time of importation, at the option of the customs administration of the importing country.

### WTO Customs Valuation Agreement article 9

Customs Law article 22 requires the use of the exchange rate in effect on the date the importation declaration is registered with Customs.



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## RULINGS AND REDRESS

### WTO Customs Valuation Agreement article 11

- The importer shall have the right to receive an explanation in writing from the Customs Authority as to how the customs value of his importation was determined.

Customs Law article 23; Executive Regulations article 33

- The importer shall have the right to appeal a customs valuation determination without penalty  
Executive Regulations article 34: appeal may be made to a higher authority within the Customs Authority or to the court
- Notice of decision shall be given in writing with reasons for the decision and information on rights of further appeal



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## SURETY TO GAIN RELEASE OF GOODS

- If the final determination of Customs value is delayed, the importer shall be permitted to withdraw his goods from Customs on provision of sufficient surety to cover the ultimate payment of Customs duties for which the goods may be liable.

WTO Customs Valuation Agreement article 13

Executive Regulations article 31



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## CONFIDENTIALITY OF INFORMATION

- 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.

WTO Customs Valuation Agreement article 10

Executive Regulations article 32



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## WRITTEN EXPLANATION OF VALUATION DETERMINATION

- 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 his imported goods was determined.

WTO Customs Valuation Agreement article 16

Executive Regulations article 33



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## THE CUSTOMS VALUATION AGREEMENT INTERPRETATIVE NOTES

- Customs valuation determinations shall be made in accordance with the Interpretative Notes to the WTO Customs Valuation Agreement.

WTO Customs Valuation Agreement article 14

Not reflected in Customs Law or Executive Regulations



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## VALIDATION OF DECLARED VALUE

- “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.”

WTO Customs Valuation Agreement article 17



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## DOCUMENTS TO BE SUBMITTED BY THE IMPORTER TO ESTABLISH THE CUSTOMS VALUE

- A completed Value Declaration
- A commercial invoice or equivalent payment document, setting out the following information:
  - ✓ Identification of the vendor and the purchaser
  - ✓ Total sum paid or payable
  - ✓ Complete description of the imported goods
  - ✓ Terms and conditions of the purchase contract
- Documents related to the costs and expenses of freight, insurance, and all expenses incurred until discharge in the port of arrival.
- Contracts, correspondence, letters of credit, etc. to the extent required to establish the accuracy of the transaction value.

Customs Law article 23; Executive Regulations article 30



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## CONTENTIOUS ADMINISTRATIVE ISSUES AND COMMON AREAS OF NON-COMPLIANCE

- Validity of invoices - actual price paid or payable?
- Which is the “sale for export to the country of import” in a chain of international transactions?
- Related parties: acceptability of transfer prices - do they include an appropriate profit margin?
- Assists, royalties and subsequent proceeds
- Buying commissions - are they disguised sales profits?
- Identification of actual transportation charges



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## BENEFITS OF IMPLEMENTATION

- Compliance with WTO Membership Requirements
- Encouragement of International Trade with Egypt
  - ✓ Consistency with customs valuation mechanisms used by most major trading countries: predictable customs administration requirements.
  - ✓ Significant reduction in cost uncertainties for international traders: a more stable trading environment.



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and relevant articles of the  
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