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## TITLE PAGE

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WCO/USAID Valuation Technical Assistance Programme  
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Seventh Quarterly Progress Report in phase 2 of the project on the status of the WCO's  
work with the countries covered by the project (period from 1 January 2004 to 31 March  
2004)

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## **WCO/USAID Valuation Technical Assistance Programme to Sub-Saharan countries**

### **Seventh Quarterly Progress Report in phase 2 of the project on the status of the WCO's work with the countries covered by the project (period from 1 January 2004 to 31 March 2004)**

#### **Introduction**

1. With its letter of 2 July 2001, the USAID granted to the World Customs Organization the sum of \$875,000 to provide support for the programs described in the Schedule of the grant and in attachment 2 of the letter, entitled "Program Description". In the Schedule, the purpose of the grant is described as "to allow the WCO to carry out a project of providing Technical Assistance to certain sub-Saharan African countries on issues related to implementation of the WTO Valuation Agreement, as more specifically described in Attachment 2 (the program description) of this grant". The effective date of the grant is the date of the letter. The original expiration date of the grant was 31 July 2003. With its letter dated 1 April 2003, the USAID agreed to extend the end date of the programme until 31 December 2003. On 8 May 2003, the WCO Secretary General signed the acknowledgement of the letter constituting the First Amendment to the USAID Grant No. AFR-G-00-01-00005-00. With its letter dated 24 November 2003, the USAID agreed to extend the end date of the programme until 31 March 2004. On 15 December 2003, the WCO Secretary General signed the acknowledgement of the letter constituting the Second Amendment to the USAID Grant No. AFR-G-00-01-00005-00.
2. The WCO identified Kenya, Lesotho, Nigeria, Senegal, and Tanzania as beneficiaries of this technical assistance. The WCO recruited Mr. Richardt Vork, Denmark, as Project Manager with effect from 1 October 2001 for a two year period expiring on 30 September 2003. Following the extensions of the end date of the programme, the WCO has extended the recruitment of the Project Manager until 31 May 2004.
3. The program description foresees that the programme consists of two phases. In phase 1 the WCO "will ascertain the current systems of customs valuation in the project countries by undertaking an initial needs analysis and, as a result will determine the needs in the areas of drawing up new legislation, training of personnel and other infrastructure requirements for implementation of WTO Valuation Agreement. Based on this assessment it will prepare a detailed work plan. The work plan will be provided to the USAID and USTR. It is expected that Phase 1 will be completed within approximately 9 months of receiving authorization to begin the program".
4. The WCO's strategy was to analyse each recipient country's situation, determine the needs, determine the actions necessary to address the needs, and deliver the required assistance. Consequently, the Project Manager conducted a needs assessment mission in each country. The WCO prepared the reports and work plans on this basis. The reports and work plans were reviewed, commented on and approved by the Customs administrations concerned. On 15 April 2002 the WCO sent the Needs Assessment

Reports and the reports containing the needs analysis and detailed work plan to the USAID.

5. It should be noted that, with entry into force on 10 July 2003, the Nigeria legislature has adopted Act No 20 to Amend the Customs and Excise Management Act to Provide for a new Method of Valuation of Goods Based on the Transaction Value. The Nigeria Customs Service has prepared draft Service instructions for the implementation and is ready to implement the Agreement. Pending a government order to start the actual implementation of the Act, the Nigeria Customs Service still applies the Brussels Definition of Value. Nigeria had invoked the five-year delay period granted to developing countries. The delay period expired on 31 December 1999. The WTO obligation to implement the Valuation Agreement took effect on 1 January 2000. During a mission to Nigeria in February 2004, the project manager received a copy of Act No. 20. A copy is enclosed with this progress report (hard copy only).

6. Phase 1 ended on 8 May 2002 when the USAID approved and agreed the Needs Assessment Reports and the reports containing the needs analysis and detailed work plan. The approval covers the suggested actions as well as the funding of the items requested by the beneficiary countries. These items are :

1. Study visits to another country (request by Kenya, Lesotho, Senegal, and Tanzania).
2. Supply of WCO documentation for the Customs School (all five countries).
3. Supply of audio-visual/IT equipment for the Customs School (all five countries).
4. Supply of IT equipment necessary to ensure the viability of an envisaged Intelligence Unit (Kenya, Senegal), Central Valuation Unit (Tanzania), and Post Clearance Audit Unit/Section (Lesotho, Nigeria, Tanzania).
5. A financial contribution towards the cost of developing the software for a national database with information on importers (FNID – Fichier National Informatisé et de Documentation) that can be used as an instrument for risk management (Senegal).

7. The USAID agreed that it is possible for the programme to pay travel costs for WCO officials carrying out the expert missions for organizational review. After consultation with its Legal Department, the USAID agreed that it is possible for the programme to pay customs experts (government officials) of WCO member countries, who participate in the implementation of activities. The WCO may also hire/pay consultants to implement the activities.

8. Phase 2 started on 8 May 2002. The program description stipulates that

“In phase 2 of the project, in consultation with the USAID, USTR, and the customs administrations of the project countries, the WCO will implement the agreed work plan. The WCO work will result in the following outputs :

1. As necessary, creation or refining of country work plans for implementation of the WTO Valuation agreement.
2. As necessary, development of technical assistance materials for customs officials and the private sector on restructured customs procedures.
3. Quarterly progress on the status of the WCO's work with countries covered by this project, including any significant accomplishments and/or problems. The reports will include any legislative or regulatory actions taken by project country

governments.

4. A final Project Report including detailed information on progress in each of the project countries as well as a list of accomplishments and unfinished business (if any). Progress will be defined in terms of the requirements of proper implementation of the WTO Valuation Agreement and measurable improvements in efficiency and transparency in project countries. The Project Report will also include recommendations on how any future technical assistance programs may be structured.”

9. The WCO has sent the quarterly report on the status of the WCO's work with countries covered by the project :

- the first quarterly report sent on 25 October 2002,
- the second quarterly report sent on 6 February 2003,
- the third quarterly report sent on 8 May 2003,
- the fourth quarterly report sent on 18 July 2003, and
- the fifth quarterly report sent on 15 October 2003.
- the sixth quarterly report sent on 21 January 2004.

10. The following constitutes the seventh Quarterly Progress Report on the status of the WCO's work with countries covered by this project. The report covers the period from 1 January 2004 to 31 March 2004.

#### **Activity management**

11. Project Manager Richardt Vork under the authority of WCO Director Chritides MWANSA manages the WCO/USAID Valuation Technical Assistance Programme to sub-Saharan Countries. The Project Manager is a specifically recruited official of the WCO. He is responsible for determining the detailed needs with regard to technical assistance, documentation and equipment, for obtaining the necessary Customs experts, and for the supervision of the delivery of the programme. Each country has appointed a national co-ordinator with whom the Project Manager liaises for the actual delivery of the assistance. The Project Manager reports to the WCO and obtains prior approval of each technical assistance action. Annex I contains the output plan.

12. The Project Manager has informed the Customs experts delivering the technical assistance actions of their roles and responsibilities.

13. The Project Manager has conducted the activity management in accordance with the job description for the post.

14. All the beneficiary countries have expressed their satisfaction with the Project Manager's work.

#### **Delays caused by security concerns**

15. The Project Manager had agreed timetables with a number of Member administrations that would enable all the technical assistance to be delivered within the period foreseen in the contract between the WCO and the USAID, i. e. until 31 July 2003. However, on 26

February 2003 the U.S. Customs Service informed the WCO that (quote) :

"Pursuant to our discussions of February 26, 2003, the U.S. Customs Service corresponds to inform the WCO of the recent developments regarding the provision of technical assistance for Nigeria and Kenya Customs.

The U.S. Customs Service will be unable to delivery the contemplated technical assistance for Nigeria Customs, which was scheduled for March 2003. As a result of the current international unrest and the "high" alert stance from which the U.S. government currently operates, the U.S. Customs Service will be unable to release the technical assistance experts that would be required for the Nigeria training delivery.

Regarding Kenya, we respectfully request that you place the April delivery of valuation assistance on hold as we will monitor the security concerns and the U.S. will advise the WCO if it is able/unable to move forward with the training programs. Given the time constraints of a July 31, 2003 end date for delivering all training, the U.S. would concur with a WCO approach to solicit trainers from other Developed countries if so desired by the WCO or as an alternative seek a minimum 6 month extension to the July 31, 2003 end date.

Notwithstanding these recent developments, the U.S. will remain in contact to advise of any new developments."  
Unquote

16. The U.S. Customs Service had agreed to conduct 14 training events, consisting of 11 workshops of 5 days duration and 3 Valuation seminars of half-day duration. The Project Manager immediately contacted other Member administrations and asked them to assist by providing experts for some or all of these workshops and seminars. Although positive, these administrations could not make experts available until after the summer holidays in 2003. It would therefore not be possible to conclude the delivery of the technical assistance by 31 July 2003. On 3 March 2003, the WCO suggested to the USAID amending the grant letter and determine the end date as December 31, 2003. On 1 April 2003, the USAID agreed to the extension.

17. The U.S. Customs and Border Protection (formerly U.S. Customs Service) conducted three workshops and a seminar in Tanzania and one workshop in Lesotho during the period June – August 2003. However, on 10 September 2003 the U.S. Customs and Border Protection informed the WCO that (quote) :

"I am corresponding to inform the WCO that the U.S. policy that restricts official government travel to Kenya is still in effect. There is no indication that the policy will change by the December 31, 2003 deadline. Thus, U.S. Customs and Border Protection will be unable to deliver training for the remaining portion of the WCO/U.S. - Sub-Saharan Valuation Technical Assistance Program.

It has truly been a pleasure to assist the WCO in its effort to provide training that will enhance our Membership Administrations' abilities to move toward a full implementation of the WTO Valuation Agreement.

We will be in touch with the WCO for a full return of deposit on funds that were provided by the WCO for the above referenced Program."

18. Also in September 2003, the British, the German, and the Dutch Customs administrations declined to conduct workshops in Nigeria, even though the Program Manager offered the payment of a fee.

19. The Project Manager obtained undertakings that German Customs experts would conduct two workshops and a Valuation seminar in Kenya. Two British Customs experts would conduct the remaining two workshops in Kenya, against payment of a fee. Two Danish Customs experts would conduct four workshops and one Valuation seminar in Nigeria against payment of a fee. A second Valuation seminar in Kano, Nigeria, was conducted by a WCO official and the Project manager during the final evaluation mission. It was thus possible to deliver the entire technical assistance programme before the new end date of the programme, 31 March 2004.

### Financial management

20. The WCO Accounts Section manages the activity budget. On 21 February 2003 Mr. Pimpong, Branch Chief, Contract Audit Management Branch, Office of Procurement, informed the WCO of the need to commission the external audit of the programme. The WCO proposed the modalities for the external audit to the USAID, Office of the Regional Inspector General, Hungary, with its letter dated 15 April 2003. The external auditors commenced their work on 27 October 2003. The audit work is still in progress.

21. On the basis of expense estimates prepared by the Project Manager, and taking into account the roll-over of funds caused by delays in disbursements, the WCO has requested advances (standard form 270) from the USAID as follows :

1	2	3	4	5	6	7
Request No	Advance for period MM/DD/YY	Amount in US\$	Date of request MM/DD/YY	Date of receipt of advance MM/DD/YY	Days elapsed between 4 and 5	Comments
1	10.01.01-12.31.01	75,000	10/04/01	01/07/02	95	The WCO had an outlay until the advance was received. Travel restrictions following the 09/11/01 events delayed the full disbursement of the first advance. The WCO rolled over the unspent funds to the first 3 months of 2003 for which no supplementary advance was requested.
2	04.01.02-06.30.02	119,300	05/22/02	06/26/02	36	The WCO had an outlay until the advance was received.

1	2	3	4	5	6	7
Request No	Advance for period <i>MM/DD/YY</i>	Amount in US\$	Date of request <i>MM/DD/YY</i>	Date of receipt of advance <i>MM/DD/YY</i>	Days elapsed between 4 and 5	Comments
3	07.01.02-09.30.02	136,470	07/10/02	09/26/02	68	A zero advance was requested for July 02 because the WCO rolled over unspent funds from the second advance that was received on June 26.
4	10.01.02-12.31.02	70,270	11/04/02	01/13/03	70	A zero advance was requested for October 02 because the WCO rolled over unspent funds from the third advance that was received on September 26. The disbursement of the advance was delayed, notably because the US Customs Service could not yet undertake missions, some Member Administrations did not invoice the WCO for their services during the quarter, and delays in procurement of equipment. The unspent funds were taken into account when advance request No 5 was formulated.
5	01.01.03-03.31.03	96,025	12/12/02	01/13/03	32	An urgent transfer of the advance was requested in order to meet the obligation to pay \$156,824 on 13 January 2003 to the US Customs Service, cf. the Memorandum of Understanding between the WCO and the USCS.

1	2	3	4	5	6	7
Request No	Advance for period MM/DD/YY	Amount in US\$	Date of request MM/DD/YY	Date of receipt of advance MM/DD/YY	Days elapsed between 4 and 5	Comments
6	04/01/03-06/30/03	172,980	03/19/03	04/02/03	14	\$66,610 Advance for April 2003.
				05/22/03	45	\$51,700 Advance for May 2003. Transfer awaited the receipt on May 6, 2003, by USAID of the Financial Status report.
				06/06/03	60	\$54,670 Advance for June 2003.
7	07/01/03-09/30/03	101,317	07/22/03	N.A.		No advance requested for July 2003.
				08/08/03	17	\$72,197 Advance for August 2003.
				09/15/03	49	\$29,120 Advance for September 2003.
8	10/01/03-12/31/03	21,458	12/04/03	12/18/03	14	No advance requested for October and November 2003.
9.	01/01/04-03/31/04	82,180	20/01/04	03/09/04	43	No advance requested for January and February 2004.

22. On 6 January 2004, the WCO received \$116,264.09 corresponding to the unused amount of the advance that the WCO had paid to the US Customs Service. These funds have been spent in January-March 2004 on the actions that the US Customs Service (now US Customs Border Protection) was unable to conduct. The WCO has submitted quarterly Financial Status reports (standard form 269) to USAID. As of 31 March 2004, the WCO had received advances from the USAID amounting to \$ 875,000 which corresponds to the grant total. The expense figures for the first quarter of 2004 are not yet available. They will be included in the Financial Status report (standard form 269) for the period.

23. The WCO has had to request reimbursement of £630 from each of four Customs officers from Kenya Customs who participated in a study visit to U.K. Customs and Excise. The WCO had paid each of them an advance that covered per diem and hotel expenses, but due to a misunderstanding the participants left London without paying their hotel room bill of £630 for each person. HM Customs and Excise, U.K., paid the bills and sent an

invoice for four times £630 to the WCO. The WCO paid the invoice from HM Customs and Excise and claimed reimbursement from the four participants. As of 27 January 2003, the WCO had recovered the funds from three of the participants. In June 2003, the Kenya Revenue Authority, Customs and Excise Department, promised to pay the outstanding funds, £630, on behalf of the fourth Customs officer. The WCO received the funds in early July 2003. This incident can therefore be considered as closed.

### Revision of Grant Budget

24. On 6 February 2003 the WCO suggested that the USAID should agree to revise the funding levels for the cost components (but not the grant total) of the grant. The justification for the proposal was indicated in the second quarterly report to the USAID, paragraphs 16 to 21. The USAID agreed to the revision of the funding levels for the cost components with its letter dated 1 April 2003. The background is as follows :

25. Attachment 1 to the grant letter contains the following specification of funding levels :

<u>Cost Element</u>	<u>Total Estimated</u>
<b><u>COST COMPONENTS</u></b>	<b><u>SUBTOTAL</u></b>
Project Manager and Customs Experts	545,000
Travel expenses, airfare, per diem, and lodging	200,000
Other direct costs (production of materials translation, equipment, resource materials, etc.	50,000
WCO Administrative Fee	<u>80,000</u>
<b>GRANT TOTAL</b>	<b>\$875,000</b>

26. The WCO suggested that the grant budget should be revised in order to foresee the following funding levels for the cost components :

<u>Cost Element</u>	<u>Total Estimated</u>
<b><u>COST COMPONENTS</u></b>	<b><u>SUBTOTAL</u></b>
Project Manager and Customs Experts	620,000
Travel expenses, airfare, per diem, and lodging	55,000
Other direct costs (production of materials, translation, equipment, resource materials, etc.	120,000
WCO Administrative Fee	<u>80,000</u>
<b>GRANT TOTAL</b>	<b>\$875,000</b>

Note 1 : The cost component "Project Manager and Customs Experts" covers fees, salaries, travel expenses, airfare, per diem, and lodging for the Project Manager and the Customs Experts.

Note 2. The cost component "Travel expenses, airfare, per diem, and lodging" covers the travel expenses for Customs officials from the beneficiary countries.

## **Work plan and staff resources**

27. The WCO had prepared a work plan foreseeing that each country will receive a number of workshops for Customs officials and seminars for the business community. The work plan had to be revised because of the delays incurred. The remaining workshops and seminars were conducted in Kenya and Nigeria between January and March 2004, and the work plan is now completed. The programme has also funded expert missions on various Valuation-related topics, Customs officers' study visits to other Customs administrations, participation in the WCO Fellowship Programme, the supply of WCO manuals and limited amounts of audio-visual and IT equipment, and a financial contribution towards the cost of developing the software for a national database with information on importers (FNID – Fichier National Informatisé et de Documentation) that can be used as an instrument for risk management. The European Commission has informed the WCO of the possibility of co-funding of trade-related IT-infrastructure projects aiming at improving the functioning of Customs. So far, the Delegations concerned of the European Commission have expressed a positive attitude towards co-funding projects in Kenya, Lesotho and Tanzania, provided that a formal request supported by each government is made by the countries through the agreed channels. For further details, see below under the heading "Impact – funding by other donors" paragraphs 35-38.

28. The staff resources consist of the Project Manager who is employed full-time for the programme, and Customs experts made available short-term by the Customs administrations of Canada, Denmark, France, Morocco, Netherlands, United Kingdom, and United States. The Project Manager briefed the Customs experts in detail of the situation in each country and provided copies of the relevant Needs Assessment Reports, training material etc. to the Customs experts.

29. The WCO obtained firm commitments from the Customs administrations mentioned above to make experts available for the actions foreseen. The Dutch Customs administration had agreed to make Customs experts available for the risk management workshops in Kenya and Nigeria. The workshop in Kenya was conducted in June 2003, but in September 2003 the Dutch Customs administration informed the Project Manager that they could not conduct the risk management workshop in Nigeria. On December 17, 2002 the WCO signed a "Memorandum of Understanding Between The World Customs Organization (WCO) And The United States Customs Service (now Customs and Border Protection) concerning the WCO/USAID Valuation Technical Assistance Programme to sub-Saharan Countries". The MOU foresaw that full programme delivery takes place before the expiration of the grant on 31 July 2003. As mentioned in paragraph 17 above, security concerns delayed the implementation of the MOU, and the USAID agreed to two no-cost extensions of the programme until 31 March 2004. In June – August 2003 the US Customs and Border Protection conducted workshops in Tanzania and Lesotho. In September 2003 the U.S. Customs and Border Protection informed the Project Manager that they were unable to provide the training to Kenya and Nigeria. Customs officers from Denmark, Germany and the United Kingdom have provided the training in Kenya and Nigeria between January and March 2004.

## **Performance Management**

30. The WCO foresees that a formal evaluation will take place in April 2004 on the basis of an evaluation mission in each of the beneficiary countries. Three of these evaluation

missions were conducted in October 2003 (Tanzania and Lesotho) and in December 2003 (Senegal). The evaluation missions to Kenya and Nigeria were conducted in February 2004. In accordance with paragraph 4 of the Program Description (Attachment 2 to the grant letter), the progress will be measured in terms of the requirements of proper implementation of the WTO Valuation Agreement and measurable improvements in efficiency and transparency in project countries. During the delivery of the technical assistance, performance is measured by monitoring the timely delivery of the technical assistance actions, by the use of "WCO Course Evaluation Forms" filled in by participants, by reports prepared by the facilitators of each workshop, and through the feedback received from the Customs administrations. The technical assistance actions have been well received.

#### **Impact – funding by other donors**

31. The WCO has informed the World Bank, the European Commission, and the WTO of the technical assistance programme. In its reply, the European Commission informed the WCO that co-funding of the WCO's activities is a possibility, but needs to be agreed and supported first by the respective African authorities. Accordingly, the WCO has assisted the Customs administrations of Kenya, Lesotho, Nigeria, and Tanzania with seeking co-funding from the European Commission for IT projects envisaged by these Customs administrations (computerisation of the Customs clearance process in Kenya, Lesotho, and Tanzania, and a communication link of the ASYCUDA system in the Customs Processing Centres in Nigeria).

32. The European Commission has agreed to provide co-funding to the Customs administrations of Kenya and Lesotho, and the Commission Delegation in Tanzania has expressed a positive attitude towards co-funding projects in Tanzania, provided that a formal request supported by the government is made by Tanzania through the agreed channels. With regard to Nigeria the European Commission has informed the WCO that "the European Commission can not intervene, without the integration of the modernisation of the Nigeria Customs Service into the country support strategy that the European Commission has agreed with Nigeria in the framework of the 9th European Development Fund (EDF). Furthermore, it will be necessary with the formal support from the Government of Nigeria (through the national authorising officer of the EDF funds) to prioritise trade, and trade facilitation in particular, under the European Commission's national indicative development programme". The WCO has informed the Comptroller-General of the Nigeria Customs Service accordingly and suggested that he consider raising the issue with the National Authorising Officer of the EDF funds. The Project Manager has informed the Nigeria Customs Service of the name and other address details of the Nigerian Authorising Officer of the EDF funds.

33. The Director General of Senegal Customs has expressed his interest that WCO assists in the preparation of requests for co-funding for trade-related I.T. infrastructure projects of the Customs administration of Senegal. However, the Director General has not yet identified the projects for which co-funding shall be requested.

34. At the request of the Commissioner General of the Kenya Revenue Authority and the Commissioner of the Kenya Customs and Excise Department, the WCO has also written to the International Monetary Fund and the World Bank, explaining the funding needs of the Kenya Customs and Excise Department for an I.T. project to upgrade the customs

clearance process. The IMF replied that it is unable to provide the requested funding. Following the request of the WCO, the World Bank Kenya Country Director held a meeting on the issue with the Commissioner of Kenya Customs. The Commissioner has thanked the WCO for facilitating the fruitful meeting.

35. It is now up to the Customs administration of Tanzania to raise the matter with the relevant government departments in order to present a formal request to the European Commission. In the case of Nigeria, the Customs administration needs to get the task "modernisation of the Nigeria Customs Service" integrated into the country support strategy that the European Commission has agreed with Nigeria in the framework of the 9th European Development Fund (EDF). The Nigeria Customs administration also needs to obtain the formal support from the Government of Nigeria (through the national authorising officer of the EDF funds) to prioritise trade, and trade facilitation in particular, under the European Commission's national indicative development programme.

36. The WTO has offered to assist the WCO with the delivery of the technical assistance.

#### **Sustainability:**

37. The WCO/USAID programme contributes to capacity building within the Customs administrations, and increases the level of understanding within the business community of the obligations and benefits resulting from the implementation of the WTO Valuation Agreement.

38. The WCO considers that the WCO/USAID programme constitutes a successful model that should be used for future technical assistance programmes.

#### **Delivery of the technical assistance**

##### WCO documentation

39. The WCO has supplied WCO documentation to the Customs schools of all five countries (Kenya, action K11, Lesotho, action L11, Nigeria, action N13, Senegal, action S07, and Tanzania, action T12).

40. For each workshop and seminar, the WCO has supplied appropriate Valuation-related documentation to the participants. Each participant in the workshops has received a WCO Certificate. A sample of a WCO Certificate was attached as Annex II to the second quarterly report. The Project Manager has instructed the facilitators to prepare a report on each workshop and to ask each participant to fill in the WCO Course Evaluation Form. The Project Manager analyses the participants' replies to the questions in the form. The WCO sends the Head of Customs a copy of the facilitators' report and of the analysis of the participants' replies to the WCO Course Evaluation Form.

##### Audio-visual and I.T. equipment

41. The WCO has determined the needs for audio-visual and I.T. equipment of the Customs schools of all five countries and authorised the procurement of the equipment in question. The procurement has taken place and the WCO has paid all the invoices. There are unfulfilled needs for equipment for new units in Customs Headquarters (e. g. post clearance audit units). Only limited quantities of equipment to Customs Headquarters can be funded under the WCO/USAID programme, but co-funding by the European

Commission and, possibly, the World Bank, should make it possible to achieve significant improvements. The equipment supplied within the grant has not been subjected to taxes.

Training, study visits<sup>1</sup> and WCO Fellowship Programme

42. The WCO has organised the following training events during the reporting period :

Type of event	Action ID	Country	Dates	Experts from
Valuation workshop for Customs officials, 20 participants.	K01	Kenya	26-30.01.2004	Germany
Valuation seminar for the business community, 40 participants.	K02	Kenya	06.02.04	Germany
Train-the-Customs Valuation Trainers Workshop, 30 participants.	K03	Kenya	01-05.03.2004	U.K.
Valuation Workshop for Middle and Senior Managers, 25 participants.	K05	Kenya	02-06.02.2004	Germany
Workshop on post clearance audit,	K09	Kenya	08-12.03.2004	U.K.
Study visit to Kenya on Valuation issues	L10	Lesotho	15-19.03.2004	Kenya
Study visit to South Africa on post clearance audit	L10	Lesotho	17-31.03.2004	South Africa
Valuation Workshop for Middle and Senior Managers	N11	Nigeria	26-30.01.2004	Denmark
Valuation workshop for Customs officers. In Lagos.	N02	Nigeria	02-06.02.2004	Denmark
* Valuation seminar for the business community. In Kano	N04	Nigeria	26.02.04	WCO
Type of event	Action ID	Country	Dates	Experts from
** Valuation seminar for the business community. In Port Harcourt	N05	Nigeria	Not scheduled, covered by N03 and N04	[WCO]
Workshop on risk management methodology	N09	Nigeria	01-05.03.2004	Denmark
* Valuation seminar for the business community. In Lagos	N03	Nigeria	05..03.04	Denmark
Workshop on post clearance audit,	N10	Nigeria	23-27.02.2004	Denmark
Valuation workshop for Customs officers.	N12	Nigeria	Covered by N02	Denmark
Study visit to France on post clearance audit	S06	Senegal	01-12.03.2004	France
Study visit to Kenya on Valuation issues	T11	Tanzania	15-19.03.2004	Kenya
Study visit to South Africa on post clearance audit	T11	Tanzania	17-31.03.2004	South Africa

<sup>1</sup> A study visit to France was scheduled in November 2003 for two Customs officers from Senegal. At the request of the French authorities, the study visit was rescheduled to 01-12 March 2004.

43. In May 2003, Customs officers from Lesotho and Tanzania conducted a study visit to South Africa Customs focusing on post clearance audit (action L10 and T11). The participants have prepared reports on the study visit. Judging from the two reports, the participants believe that they did not gain much benefit from the study visit, and that the organisation of the study visit was poor. The WCO is concerned that the participants' time and the WCO/USAID programme funds would appear to have been expended without sufficient benefit being obtained. The participants suggest organising a second study visit. The WCO has written to the Head of Customs of South Africa asking him to indicate what problems were encountered with regard to the preparation of the study visit and during the study visit itself. Before any consideration can be given to a possible return study visit, the inefficiencies and problems of the first visit needed to be identified and dealt with. The Head of Customs of South Africa initiated an inquiry and sent a report to the WCO. The WCO sent a copy of the report to the Heads of the Customs administrations in Lesotho and Tanzania. The Project Manager discussed the issue during the final evaluation missions to Lesotho and Tanzania in October 2003. The two Commissioners of Customs and Excise took note of the report established by the South Africa Customs and agreed to consider the incident as closed. They asked the Project Manager to envisage a second study visit focusing on post clearance audit in Kenya or South Africa. The Kenya Customs administration has replied that it does not yet have a functioning post clearance audit programme, but it has offered to host a study visit on Valuation issues. The South African Customs Service agreed to host a second study visit from 17 to 31 March 2004. This second study visit was a great success.

44. On 11 February 2004, Mr. Yoon LEE chaired a meeting in Washington with two WCO representatives (Mr. Chriticles MWANSA, Director, and Mr. Richardt VORK, project manager) with the purpose to discuss achievements/results and further work to do after the successful implementation of the grant components.

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WCO/USAID Valuation  
Technical Assistance Programme to Sub-Saharan Countries

1  
31 March 2004

Valuation workshop for Customs officials, 20 participants.	K01	Kenya	21	26-30/01/04	Germany
Valuation seminar for the business community, 40 participants.	K02	Kenya	22	06.02.04	Germany
Train-the-Customs Valuation Trainers Workshop, 30 participants.	K03	Kenya	23	01-05/03/2004	U.K.
Expert mission in order to carry out an organizational review.	K04	Kenya	11	28/05-07/06/03	Canada
Valuation Workshop for Middle and Senior Managers, 25 participants.	K05	Kenya	26	02-06/02.2004	Germany
Workshop on risk management	K06	Kenya	24	16/6-20/06/03	NL
Expert mission concerning the organization and operation of a Post Clearance Audit Section.	K07	Kenya	12	28/05-07/06/03	Canada
Expert mission concerning the organization and operation of an Intelligence Unit	K08	Kenya	14	28/05-07/06/03	Canada
Workshop on post clearance audit,	K09	Kenya	25	08-12/03/2004	U.K.
Study visit to another country (U.K.)	K10	Kenya	31	23-27/09/02	Kenya
Supply of WCO documentation for the Customs School	K11	Kenya	32	22 June 2003	
Supply of audio-visual/IT equipment for the Customs School	K12	Kenya	33	Equipment delivered in February 2004	Paid in March 2004
Supply of IT equipment necessary to ensure the viability of an envisaged Intelligence Unit	K13	Kenya	34	P.M.	
Valuation workshops for Customs officers	L01	Lesotho	21	04-08/11/02; 11-14/11/02	U.K.
Valuation seminar for the business community	L02	Lesotho	22	15.11.02	U.K.
Train-the-Customs Valuation Trainers Workshop	L03	Lesotho	23	02-06/09/02	U.K.
Expert mission in order to carry out an organizational review.	L04	Lesotho	11	07-11/04/03	Canada
Expert mission concerning the introduction of a risk management programme	L05	Lesotho	15	07-11/04/03	Canada
Expert mission concerning the organization and operation of a Post Clearance Audit Section.	L06	Lesotho	12	07-11/04/03	Canada
Workshop on risk management	L07	Lesotho	24	18-22/11/02	Denmark
Workshop on post clearance audit	L08	Lesotho	25	28/07-01/08/03	USA
Valuation Workshop for Middle and Senior Managers	L09	Lesotho	26	22-26/7/02	U.K.

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Study visit to another country (Kenya and South Africa) and to the WCO Fellowship Programme	L10	Lesotho	31	17-31/05/03 (South Africa); 23/09-01/11/02 (Fellowship programme) . A second study visit to South Africa took place from 17-31 March 2004. The study visit to Kenya took place from 15-19 March 2004.	South Africa WCO Kenya	
Supply of WCO documentation for the Customs School	L11	Lesotho	32	July 2002		
Supply of audio-visual/IT equipment for the Customs School	L12	Lesotho	33	Delivered in January 2004. All paid.		
Supply of IT equipment necessary to ensure the viability of an envisaged Post Clearance Audit Unit/Section	L13	Lesotho	35	P.M.		
Visit to Nigeria Customs Service Headquarters by a high-ranking official with valuation expertise, from a developed country already having implemented the Valuation Agreement, for advisory talks on how to overcome initial implementation problems, including the risk of revenue loss caused by under-declaration of value.	N01	Nigeria	16	09-13/06/03	Canada	
Valuation workshop for Customs officers. In Lagos.	N02	Nigeria	21	02-06.02.04	Denmark	
Valuation seminar for the business community. In Lagos	N03	Nigeria	22	05.03.04	Denmark	
Valuation seminar for the business community. In Kano	N04	Nigeria	22	26.02.04	WCO	
Valuation seminar for the business community. In Port Harcourt	N05	Nigeria	22	P.M.	This workshop will be covered by N03 and N04.	
Expert mission concerning the introduction of a risk management programme	N06	Nigeria	15	09-13/06/03	Canada	

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Expert mission concerning the organization and operation of a Post Clearance Audit Unit	N07	Nigeria	12	09-13/06/03	Canada
Train-the-Customs Valuation Trainers Workshop	N08	Nigeria	23	23-27/09/02	Netherlands
Workshop on risk management methodology	N09	Nigeria	24	01-05/03/2004	Denmark
Workshop on post clearance audit,	N10	Nigeria	25	23-27/02/2004	Denmark
Valuation Workshop for Middle and Senior Managers	N11	Nigeria	26	26-30/01/2004	Denmark
Valuation workshop for Customs officers.	N12	Nigeria	21	Not possible.	This workshop will be covered by N02
Supply of WCO documentation for the Customs Schools	N13	Nigeria	32	Oct. 2002	
Supply of audio-visual/IT equipment for the Customs Schools	N14	Nigeria	33	Equipment delivered in February 2004	Paid in March 2004
Supply of IT equipment necessary to ensure the viability of an envisaged Post Clearance Audit Unit/Section	N15	Nigeria	35	P.M.	
Train-the-Customs Valuation Trainers Workshop	S01	Senegal	23	02-06/09/02	France
Workshop on risk management	S02	Senegal	24	07-11/04/03	France
Workshop on post clearance audit,	S03	Senegal	25	14-18/04/03	France
Valuation workshop for Customs officers. (Chefs de visite and Chefs de Section), 20 participants	S04	Senegal	26	23-26/09/02	Morocco
Valuation seminar for the business community.	S05	Senegal	22	27.09.02	Morocco
Study visit to another country (France)	S06	Senegal	31	01-12.03.04	Senegal/France
Supply of WCO documentation for the Customs School	S07	Senegal	32	Sept. 2002	
Supply of audio-visual/IT equipment for the Customs School	S08	Senegal	33	All paid.	
Supply of IT equipment necessary to ensure the viability of an envisaged Intelligence Unit	S09	Senegal	34	P.M.	
A financial contribution towards the cost of developing the software for a national database with information on importers (FNID – Fichier National Informatisé et de Documentation) that can be used as an instrument for risk management	S10	Senegal	37	Paid in September 2003	
Expert mission concerning the organization and operation of a Post Clearance Audit Unit	S11	Senegal	12	22/02-01/03/03	France
Expert mission in order to carry out an organizational review.	T01	Tanzania	11	31/03-04/04/03	Canada
Expert mission concerning the organization and operation of a Post Clearance Audit Section.	T02	Tanzania	12	31/03-04/04/03	Canada
Valuation workshop for Customs officials, 25 participants.	T03	Tanzania	21	23-27/06/03	USA

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Valuation seminar for the business community, 40 participants.	T04	Tanzania	22	19.06.03	USA	
Train-the-Customs Valuation Trainers Workshop, 24 participants.	T05	Tanzania	23	02-13/12/02	Netherlands	
Expert mission in order to assist with development of systems and procedures aiming at moving away from Pre-Shipment Inspection and toward inspection at destination (The mission is dependant upon Tanzania confirming the wish to move away from Pre-Shipment Inspection)	T06	Tanzania	13	31/03-04/04/03	Canada	
Workshop on risk management, 20 participants.	T07	Tanzania	24	16-20/12/02	Denmark	
Workshop on post clearance audit,	T08	Tanzania	25	21-25/07/03	USA	
<del>Valuation Seminar for customs clearing agents and importers, 25 part</del> (Not possible because U.S. Customs Service is restricted in conducting seminars for the business community). <i>Replaced by</i> Valuation seminar for the business community, in Arusha	T09	Tanzania	22	24.10.03	WCO	
Valuation Workshop for Middle and Senior Managers, 25 participants.	T10	Tanzania	26	16-20/06/03	USA	
Study visit to another country (Kenya and South Africa)	T11	Tanzania	31	17-31/05/03 (South Africa); 23/09-01/11/02 (Fellowship programme) . A second study visit to South Africa took place from 17-31 March 2004. The study visit to Kenya took place from 15-19 March 2004.	Tanzania	
Supply of WCO documentation for the Customs School	T12	Tanzania	32	March 2003		
Supply of audio-visual/IT equipment for the Customs School	T13	Tanzania	33	May/June 2003. All paid.		

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Supply of IT equipment necessary to ensure the viability of an envisaged Central Valuation Unit	T14	Tanzania	36 P.M.		
Supply of IT equipment necessary to ensure the viability of an envisaged Post Clearance Audit Unit/Section	T15	Tanzania	35 P.M.		

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*Extraordinary*



# Federal Republic of Nigeria Official Gazette

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*Government Notice No. 127*

The following is published as Supplement to this *Gazette* :

<i>Act No.</i>	<i>Short Title</i>	<i>Page</i>
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CUSTOMS AND EXCISE MANAGEMENT (AMENDMENT) ACT, 2003



ARRANGMENT OF SECTIONS

SECTION :

1. Amendment of Cap. 84 Laws of the Federation of Nigeria 1990.
2. Substitution for Section 57 of the Principal Act.
3. Substitution for First Schedule.
4. Citation.

CUSTOMS AND EXCISE MANAGEMENT (AMENDMENT) ACT, 2003  
2003 ACT No. 20

AN ACT TO AMEND THE CUSTOMS AND EXCISE MANAGEMENT ACT TO PROVIDE FOR A  
NEW METHOD OF VALUATION OF GOODS BASED ON THE TRANSACTION VALUE.

ENACTED by The National Assembly of The Federal Republic of Nigeria—

[10th July, 2003]

1. The Customs and Excise Management Act (referred to in this Act as “the Principal Act”) is amended as set out in this Act.

2. Substitute for Section 57 of the Principal Act a new Section 57.

“57—(1) The Minister may make regulations—

(a) regulating with respect to ships and aircraft respectively the loading of goods for exportation or as stores and the embarking of passengers for a destination outside Nigeria ;

(b) prescribing the procedure to be followed and the documents to be produced and information to be furnished by any person conveying goods out of Nigeria by land or inland waters ; and

(c) regulating with respect to concessions and privileges granted to some exported goods or stores pursuant to any trade relationship between the Federal Republic of Nigeria or any other country.

(2) A person who contravenes any regulation made under this Section is liable to a fine three times the value of the goods and any goods in respect of which the offence is committed shall be forfeited”.

3. Substitute for the First Schedule to the Principal Act a new First Schedule.—

Commence-  
ment.

Amendment  
of Cap 84  
LFN 1990

Substitution  
for Section  
57 of the  
Principal Act.

Substitution  
for First  
Schedule.

SCHEDULE

FIRST SCHEDULE

VALUE OF IMPORTED GOODS

Transaction  
value of  
goods  
general.

1. The customs value of goods bought or imported for use in Nigeria shall be the transaction value of the goods adjusted in accordance with the provisions of paragraph 7 (1) of this Schedule, provided that—

(a) there are no restrictions as to the disposition or use of the goods by the buyer, other than restrictions which—

- (i) are imposed or required by law or by any public authority in Nigeria, or
- (ii) limit the geographical area in which the goods may be resold, or
- (iii) do not substantially affect the value of the goods ;

(b) the sale or price of the goods is not subject to some condition or consideration for which a value cannot be ascribed or determined with respect to the goods being valued ;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer shall accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of paragraph 7(1) of this Schedule ; and

(d) the buyer and seller are not related as defined in paragraph 16 (2) (c) of this Schedule and if related, that buyer has proved to the satisfaction of the Board that the relationship has not influenced the price of the goods by showing that—

(i) the price of identical or similar goods in a transaction between persons for export to Nigeria, at or about the same period of time, closely approximates to the price of the goods to be valued,

(ii) the customs value of identical or similar goods as determined under the provisions of paragraph 4 of this Schedule in a transaction between unrelated persons, at or about the same period of time, closely approximates to the price of the goods to be valued,

(iii) the customs value of identical or similar goods as determined under the provisions of paragraph 5 of this Schedule in a transaction between unrelated persons, at or about the same period of time, closely approximates to the price of goods to be valued.

Transaction  
value of  
identical  
goods.

2.—(1) If the Customs value of any goods imported into Nigeria cannot be determined under the provisions of paragraph 1 of this Schedule, the Customs value of the imported goods shall be transaction value of identical goods already accepted under paragraph 1 of this Schedule sold for export to Nigeria and exported at or about the same time, at the same commercial level and in substantially the same quantity, as the goods being valued, adjustment having been made under paragraph 10 (1) and (2) of this Schedule to take account of significant difference in costs and charges between

the imported goods and the identical goods arising from differences in distances and modes of transport.

(2) Where identical goods as mentioned in sub-paragraph (1) of this paragraph are found but are not at the same commercial level and in substantially the same quantity as the goods being valued, the transaction value of the goods shall still be used as the Customs Value of the goods being valued, provided that—

(a) adjustment can be made by demonstrated evidence to take account of the differences attributable to commercial level and quantity ; and

(b) where the adjustment of the transaction value of the identical goods as stated in this sub-paragraph leads to a value different in figure from the transaction value already accepted for the identical goods under paragraph 1 of this Schedule, the higher value or figure shall be used as the customs value of the goods being valued.

3.—(1) If the Customs value of any goods imported into Nigeria cannot be determined under the provisions of paragraph 2 of this Schedule, then the customs value of the imported goods shall be the transaction value of similar goods already accepted under paragraph 1 of this Schedule sold for export to Nigeria and exported at or about the same time, at the same commercial level and in substantially the same quantity, as the goods being valued, adjustment having been made under paragraph 10 (1) and (2) of this Schedule to take account of significant difference in cost and charges between the imported goods and the similar goods arising from differences in distances and modes of transport.

Transaction  
value of  
similar  
goods.

(2) Where similar goods as mentioned in paragraph 2 (1) of this Schedule are found but are not at the same commercial level and in substantially the same quantity as the goods being valued, the transaction value of such goods shall still be used as the customs value of the goods being valued, provided that—

(a) adjustment can be made by demonstrated evidence to take account of the differences attributable to commercial level and quantity ;

(b) where the adjustment of the transaction value of the similar goods as stated in this sub-paragraph leads to a value different in figure from the transaction value already accepted for the similar goods under paragraph 1 of this Schedule, the higher value or figure shall be used as the customs value of the goods being valued.

4.—(1) Where the customs value of goods imported into Nigeria cannot be determined under the provisions of paragraph 1, 2 or 3 of this Schedule, the customs value shall be based on the unit price at which the imported goods, identical or similar goods (in that order) are sold in Nigeria in the conditions as imported, in the greatest aggregate quantity, at or about the time of importation of the goods being valued, to persons who are not related to the persons from whom they buy those goods, subject to deductions for the following—

Sale Value.

(a) commissions usually paid, or agreed to be paid, additions usually made for

profit, and any general expenses in connection with the sales in Nigeria of goods of the same class or kind, whether imported from the same country or not ;

(b) the usual costs of transport and insurance and associated costs within Nigeria of the same identical, or similar goods (in that order) whether imported from the same country or not ; and

(c) the customs duties, other Federal, State or Local Government taxes payable in Nigeria by reason of the importation or sale of the same, identical or similar goods (in that order).

(2) Where identical or similar goods to the goods being value are used to calculate the customs value as mentioned in sub-paragraph (1) of this paragraph, the goods should have been imported into Nigeria at the earliest date but not later than 90 days from the date of importation of the goods to be valued.

(3) If the goods imported into Nigeria, identical or similar goods are not sold in Nigeria in the condition as imported, the customs value of the goods shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity or persons in Nigeria, who are not related to the persons from whom they buy those goods, due allowance being made for the value added by the processing and the deductions provided for in sub-paragraph (1) of this paragraph.

Computed Value.

5.—(1) If the customs value of goods imported into Nigeria cannot be determined under the provisions of paragraph 1, 2, 3 or 4 of this Schedule, the Customs value shall be based on a computed value which shall consist of—

(a) the cost or value of materials and fabrication of other processing employed in producing the imported goods ;

(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 Nigeria ; and

(c) the cost or value of all other expenses made under paragraph 7 (2) of this Schedule.

(2) For the purposes of determining a computed value of any goods—

(a) no person who is not resident in Nigeria shall be required or compelled to produce for examination, or to allow access to, any account or other record ;

(b) information supplied by the producer of the goods or any other person, may be verified in another country by the Board through the Federal Government of Nigeria, with the agreement of the producer of the goods, provided sufficient advance notice is given to the Government of the producer's country and that Government does not object to the investigation.

Reasonable value.

6.—(1) Where the customs value of goods imported into Nigeria cannot be determined under the provisions of paragraphs 1, 2, 3, 4, or 5 of this Schedule, the Customs Value shall be determined using reasonable means consistent with the principles and general provisions of this Schedule, and on the basis of data available in Nigeria.

(2) No customs value shall be determined under the provisions of sub-paragraph (1) of this paragraph on the basis of—

- (a) the selling price in Nigeria of identical or similar goods produced in Nigeria ; or
- (b) a system which provides for the acceptance for customs value purposes of the higher of two alternatives ; or
- (c) the price of goods on the domestic market of the country of exportation ; or
- (d) the cost of production of the goods being valued, other than computed values determined for identical or similar goods in accordance with the provisions of paragraph 5 of this Schedule ; or
- (e) the price of goods for export to a country other than Nigeria ; or
- (f) minimum customs values ; or
- (g) arbitrary or fictitious values.

(3) For purposes of determining customs value under sub-paragraph (1) of this paragraph, the Board may—

- (a) use to the greatest extent possible, Customs Value previously determined under paragraphs 1, 2, 3, 4 and 5 of this Schedule ; and
- (b) be reasonably flexible in the application of the methods already enumerated in paragraphs 1, 2, 3, 4, and 5 of this Schedule.

7.—(1) For the purposes of determining the customs value under the provisions of paragraph 1 of this Schedule, there shall be added to the price actually paid or payable for the goods imported into Nigeria—

(a) to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods—

- (i) commission and brokerage, except buying commission,
- (ii) the cost of containers which are treated as being one for customs purposes with the goods in question,
- (iii) the cost of packing, whether for labour or materials ;

(b) to the extent that the value has not been included in the price actually paid or payable, the value, apportioned as appropriate, of the following goods and services, where supplied directly or indirectly by the importer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods—

- (i) a material, component, part and similar items incorporated in the imported goods,
- (ii) a tool, die, mould, and similar item used in the production of the imported goods,
- (iii) a material consumed in the production of the imported goods,

Additions  
for purposes  
of  
determining  
customs  
value.

(iv) engineering, development, art work, design work, plan, and sketch undertaken elsewhere than in Nigeria and necessary for the production of the imported goods ;

(c) royalty and licence fee related to the goods being valued which the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalty and fee are not included in the price actually paid or payable ; and

(d) the value of any part of the proceeds of any subsequent resale , disposal or use of the imported goods which accrues directly or indirectly to the exporter

(2) In determining the customs value under the provisions of paragraph 1 of this Schedule, there shall also be added to the price actually paid or payable—

(a) the cost of transporting the imported goods to the port or place of importation ;

(b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation ; and

(c) the cost of insurance.

(3) An addition or a deduction to the price actually paid or payable shall be made, in any valuation under this Schedule only on the basis of objective and quantifiable data, and as provided for in this Schedule.

Sequential  
order of  
valuation.

8.—(1) The valuation methods enumerated in paragraphs 1, 2, 3, 4, 5, and 6 of this Schedule shall be followed sequentially, so however that the buyer of the goods being valued shall have the right, on a request in writing to the Board made within three days of the valuation, to demand that the sequential order as enumeration in paragraphs 4 and 5 of this Schedule be changed, stating in the request the reasons for the demand.

(2) On receipt of a request in writing from the buyer under sub-paragraph (1) of this paragraph, the Board shall consider the request and shall, if satisfied with the reasons contained in the request, accordingly change the sequential order of valuation, and communicate the change in writing to the buyer or his agent not later than 7 days from the date of receipt of the request.

(3) Where the Board is not satisfied with the reasons given by the buyer for a change in the sequential order of valuation, it shall, within 7 days of receipt of the request, communicate its decision to the buyer or his agent and the decision of the Board on the issue shall be final.

(4) Every buyer shall have the right, on a written request to the Board, to have a written explanation from the Board, not later than 10 days from the date of receipt of the letter containing the determination, as to how the Customs Value of goods imported by him into Nigeria was determined.

9.—(1) Where the conversion of currency is necessary for the determination of the customs value of any good, the rate of exchange to be used shall be that duly published by the Federal Ministry of Finance and shall reflect as effectively as possible, in respect of the period covered by the document of publication, the current value of the currency in commercial transaction in terms of the Naira.

Currency conversion

(2) The conversion rate to be used shall be that in effect at the time of entry of the goods into Nigeria.

10.—(1) If, in the course of determining the customs value of goods imported into Nigeria, it becomes necessary to delay the final determination of the customs value, the buyer of the goods shall be permitted by the Board to clear and take possession of the imported goods if, where so required, the buyer provides—

Delayed valuation

- (a) adequate surety for payment of any customs duty that may be payable ; or
- (b) a deposit or some other appropriate instrument, covering the ultimate payment of any customs duty that may be payable ; or
- (c) any other form of guarantee which, in the opinion of the Board, is sufficient to ensure payment of any customs duty that may be payable on the delayed valuation.

(2) Delay in the final determination of customs value as stated in sub-paragraph (1) of this paragraph shall not be later than 30 days from the date of valuation commenced.

11.—An 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 Board, to be disclosed only—

Restriction on the disclosure of information.

- (a) on the specific permission of the person or government providing such information ; or
- (b) to the extent required in any judicial proceedings ; or
- (c) to the extent required by the Board in satisfying itself as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.

12.—(1) When a declaration has been presented and the Board has reason to doubt the truth or accuracy of the particulars or documents produced in support of the declaration, the Board may request the importer of the goods to provide further explanation, including document or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of paragraph 7 (1) of this Schedule.

Administrative and compliance matters.

(2) If, after receiving further information, or in the absence of a response, the Board still has reason to doubt the truth or accuracy of the declared value, it shall be deemed, having regard to the provisions of paragraph 6 (1) of this Schedule, that the customs value of the imported goods cannot be determined under the provisions of paragraph 7 (1) of this Schedule but the Board shall, before taking final decision, communicate to the buyer, in writing if requested, its grounds for doubting the truth or accuracy of the particulars or documents produced and the buyer shall be given a reasonable opportunity to respond.

(3) When a final decision is made, the Board shall communicate to the buyer in writing its decision and the grounds for the decision.

(4) Every buyer shall keep records of all his transactions which shall be produced to the Board on demand.

Appeals. 13.—(1) If a buyer or his agent is not satisfied with the customs valuation of his imported goods, he may, within 7 days of becoming aware of the valuation, appeal to the Customs Area Comptroller in charge of the area where the valuation took place stating the reason for the appeal.

(2) The Customs Area Comptroller concerned shall consider the appeal and shall, within 21 days of receipt of the appeal, communicate to the buyer or his agent the result of the appeal.

(3) Where the buyer or his agent is not satisfied with the decision of the Customs Area Comptroller, he may, within 14 days of receipt of the decision, appeal to the Comptroller-General of Customs.

(4) The Comptroller-General of Customs shall, not later than 10 days from the date of receipt of the appeal, communicate to the buyer or his agent, the result of the appeal.

(5) If a buyer or his agent is not satisfied with the decision of the Comptroller-General he may, within 14 days of his becoming aware of the decision, institute an action in Court.

(6) Nothing in this Schedule shall be construed as preventing the Board from collecting the assessed Customs duties before accepting an appeal, so however that where an appeal succeeds, the buyer shall be entitled to a refund of any excess duty paid.

Application of GATT 1994. 14. For purposes of the interpretation of Customs valuation under this Act, the provisions of Article VII of the General Agreement on Tariffs and Trade 1994 as contained in the Agreement on the implementation of Article VII, together with all the notes to the Articles, and all the Annexes to those Articles, shall apply.

Amendment. 15. No amendment or alteration shall be made to this Schedule except with the consent of the members to the General Agreement on Tariffs and Trade 1994 as contained in the Agreement on the implementation of Article VII of the General Agreement on Tariffs and Trade 1994 Agreement.

Interpretation. 16.—(1) In this Schedule—

“Commercial level” means the step at which the goods are changing hands, the first commercial level being between the seller and the buyer, the second being between the buyer and the first buyer in Nigeria and subsequently in that order ;

“Customs value of goods imported into Nigeria” means the value of goods for the purposes of levying *ad valorem* duties of Customs on goods imported into Nigeria ;

“date of importation” means the date of entry of the imported goods into Nigeria ;

“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 ;

"identical goods" and "similar goods" excludes, as the case may be, goods which incorporate or reflect engineering, development, art work, design work, plans and sketches for which no adjustment has been made under paragraph 7 (1) (b) (iv) of this Schedule because they were undertaken in Nigeria ;

"Identical goods" means goods which are the same in all respect, including physical characteristics, quality and reputation, so however that minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical ;

"price actually paid or payable" includes all payments made or to be made, as a condition of sale of the imported goods, by the buyer to or for the benefit of the seller, or by the buyer to or for the benefit of a third party to satisfy an obligation of the seller.

"produced" includes grown, manufactured and mined ;

"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 inter-changeable considering the quality of the goods, their reputation and the existence of a trademark ;

"transaction value" means the price actually paid or payable for goods when sold for export to Nigeria.

(2) In this Schedule—

Schedule.

(a) except the contrary is specifically stated in a particular paragraph, goods shall not be regarded as identical goods or similar goods unless they were produced in the same country as the goods being valued ;

(b) goods produced by a different person shall be taken into account when there are no identical goods or similar goods, as the case may be, produced by the same person as the goods being valued ;

(c) persons shall be deemed to be related if—

- (i) they are officers or directors of each others business, or
- (ii) they are legally recognized partners in business, or
- (iii) they are employer and employee, or
- (iv) one of them, directly or indirectly, owns, controls or holds at least 5 per cent of the outstanding voting stock of shares of both of them, or
- (v) one of them, directly or indirectly, controls the other, or
- (vi) both of them are directly or indirectly controlled by a third person, or
- (vii) together they directly or indirectly control a third person, or
- (viii) they are members of the same family, or
- (ix) they are associated in business with each other as sole agent, sole distributor or sole concessionaire, however described and fall into any of the proceeding provisions of this sub-paragraph."

Citation.      4. This Act may be cited as the Customs and Excise Management (Amendment) Act, 2003.

I certify, in accordance with Section 2 (1) of the Acts Authentication Act, Cap. 4, Laws of the Federation of Nigeria 1990, that this is a true copy of the Act passed by both Houses of the National Assembly.

IBRAHIM SALIM, CON.  
*Clerk to the National Assembly*  
8th Day of July, 2003

EXPLANATORY MEMORANDUM

The Act amends the Customs and Excise Management Act, Cap. 84, Laws of the Federation of Nigeria and provides a new method of valuation of goods imported into Nigeria based on the transaction value as contained in the General Agreement on Tariffs and Trade 1994.

**SCHEDULE TO CUSTOMS AND EXCISE MANAGEMENT (AMENDMENT) BILL, 2003**

(1) <i>Short Title of the Bill</i>	(2) <i>Long Title of the Bill</i>	(3) <i>Summary of the Contents of the Bill</i>	(4) <i>Date passed by Senate</i>	(5) <i>Date passed by House of Representatives</i>
The Customs and Excise Management (Amendment) Bill 2003.	An Act to amend the Customs and Excise Management Act Cap. 84 Laws of the Federation of Nigerian 1990 to provide a new method of valuation of goods imported into Nigeria based on the transaction value.	The Bill seeks to amend the Customs and Excise Management Act Cap. 84, Laws of the Federation of Nigeria 1990 to provide a new method of valuation of goods imported into Nigeria based on the transaction value as contained in the General Agreement on Tariffs and Trade 1994.	28-5-2002	6-5-2003

I certify, that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4, Laws of the Federation of Nigeria 1990.

I ASSENT.



IBRAHIM SALIM, CON  
*Clerk to the National Assembly*  
8th Day of July, 2003

CHIEF OLUSEGUN OBASANJO, GCFR  
*President of the Federal Republic of Nigeria*  
10th Day of July, 2003