



NamRA

Namibia Revenue Agency



NAMRA CUSTOMS VALUATION BOOKLET

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1. PREAMBLE

This booklet is born out of the need for creating awareness and providing information to customs officials, importers and other stakeholders on **how to do valuation on imported goods to get customs value**. This is also in response to reported instances of inconsistent valuation of imported goods by Customs and Excise officers. It's for this reason that Subdivision Classification and Valuation compiled this booklet, which is further expected to enhance the implementation of Article VII (7) WTO (GATT) Agreement on Valuation and Chapter IX(9) of Customs and Excise Act 20 of 1998 and encourage officers and stakeholders to make informed decisions when valuing goods and eliminate the use of random and fictitious valuation methods.

2. METHOD ONE (ARTICLE 1) TRANSACTION VALUE

The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Section 77 of the Customs Act, provided:

A. That there are **no restrictions as to the disposition or use of the goods** by the buyer other than restrictions which: are imposed or required by law or by the public authorities in the country of importation.

- * Limit the geographical area in which the goods may be resold; or
- * Do not substantially affect the value of the goods.

- B. That the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued.
- C. That no part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of the **Customs Act** (Section 77); and
- D. That the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of the **Customs Act**. [**Section 76(2&3)**]

Valuation adjustments in accordance with **customsact** (Section 77) are the various elements (dutiabale factors), which should be added or subtracted while determining the Customs value. The adjustments should be made to the extent if they are not already included in the price actually paid or payable (invoice value). These dutiabale factors are:

To be added

- * Commissions and brokerage, except buying commissions.
- * The cost of packing whether for labour or materials.
- * The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable: -
 - * material, components, parts and similar items incorporated in the imported goods.

- * tools, dies, moulds and similar items used in the production of the imported goods.
- * materials consumed in the imported goods.
- * engineering, developing, artwork, design work, and plans and sketches undertaken elsewhere than in the importing country and necessary for the production of imported goods.
- * Royalties and license fees related to 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 actually paid or payable.
- * The value of any part of the proceeds of any subsequent resale, disposal or use of the goods that accrues directly or indirectly to the seller

To be deducted

- * Freight and insurance to be included in the invoice value as we use FOB (Free on Board)
- * buying commissions
- * Cost of transport in country of importation.
- * Customs duties and national taxes payable in country of importation.

Transaction value method does not apply to situations where the document contains false information or the documentation is fraudulent intentional (under valuation, wrong description, mis- declaration of quantity, grade, specifications, etc.) to reduce duty liability, when proven may be dealt with as fraud. In cases where there is reasonable doubt the truth or accuracy of the declared value, decision 6.1 of WTO Valuation Committee (Summary) could be applied .

3. METHOD TWO (ARTICLE 2) TRANSACTION VALUE OF IDENTICAL GOODS

- A. If the customs value of the imported goods cannot be determined under the provisions of method one, the customs value shall be the transaction value of identical goods sold for export to the same country of importation and exported at or about the same time as the goods being valued.
- B. In applying this method, the transaction value of identical goods in a sale at the same commercial level and in the substantially the same quantity as the goods being valued shall be used to determine the Customs Value :

Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

Where the costs and charges referred to in **customs act (section 77)** are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

If, in applying this method, more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Goods may be considered as identical if they are:

- * Same in all respect including physical characteristic, Quality, and reputation
- * Produced in the same country as the goods being valued.

4. METHOD THREE (ARTICLE 3) TRANSACTION VALUE OF SIMILAR GOODS

If the customs value of the imported goods cannot be determined under the provisions of method 1 and 2, the customs value shall be the transaction value of similar goods sold for export to the same country of importation and exported at or about the same time as the goods being valued.

In applying this Article, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value.

Where no such sale is found, a sale of similar goods that takes place under any one of the following **three conditions** may be used:

- * A sale at the same commercial level but indifferent quantities.
- * A sale at a different commercial level but in substantially the same quantities; or
- * A sale at a different commercial level and in different quantities.

Where the costs and charges referred to in **Customs Act** (Section 77) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

If, in applying this method, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

If the customs value of the imported goods cannot be determined under the provisions of method 1, 2 and 3, the customs value shall be determined under the provisions of method 4 or, when the customs value cannot be determined under that method, under the provisions of method 5 except that, at the request of the importer, the order of application of method 4 and 5 shall be reversed.

Goods may be considered as Similar if they are:

- * Like in all respect including physical characteristic, Quality, and reputation.
- * Produced in the same country as the goods being valued.

5. METHOD FOUR (ARTICLE 5) DEDUCTIVE VALUE METHOD

- A. If the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported, the customs value of the imported goods under the provisions of this method shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to **deductions** for the following :
- * Either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind.
 - * The usual costs of transport and insurance and associated costs incurred within the country of importation.
 - * Where appropriate, the costs and charges referred to in paragraph 2 of Article 8; and
 - * The customs duties and other national taxes payable in the country of importation by reason of the importation or sale of the goods.
- B. If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value

shall, subject otherwise to the provisions of paragraph A, be based on the unit price at which the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of 90 days after such importation.

If neither the imported goods nor identical nor similar imported goods are sold in the country of importation in the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the country of importation who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph A

6. METHOD FIVE (ARTICLE 6) COMPUTED VALUE METHOD

The customs value of imported goods under the provisions of this method shall be based on a computed value. Computed value shall consist of the sum of:

- A. The cost or value of materials and fabrication or 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 the country of importation.
- C. The cost or value of all other expenses necessary to reflect the valuation option chosen by the Member under paragraph 2 of Article 8.

No Member may require or compel any person not resident in its own territory to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value.

However, information supplied by the producer of the goods for the purposes of determining the customs value under the provisions of this method may be verified in another country by the authorities of the country of importation with the agreement of the producer and provided they give sufficient advance notice to the government of the country in question and the latter does not object to the investigation.

7. METHOD SIX (ARTICLE 7) THE FALL-BACK METHOD

If the customs value of the imported goods cannot be determined under the provisions of method 1 to 5, the customs value shall be determined:

- * Using reasonable means
- * Consistent with the principles and general provisions of the Article VII WTO (GATT) Valuation Agreement and of 1994
- * On basis of data available in the country of importation.

No customs value shall be determined under the provisions of this method on the basis of:

- A. The selling price in the country of importation of goods produced in such country.
- B. A system which provides for the acceptance for customs purposes of the higher of two alternative values.
- C. The price of goods on the domestic market of the country of exportation.
- D. The cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 6;
- E. The price of the goods for export to a country other than the country of importation.
- F. Minimum customs values; or
- G. Arbitrary or fictitious values.

If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of this method and the technique used to determine such value.

8. GLOSSARY

In this Booklet:

- * **“Agreement”** refers to the WTO Agreement on Customs Valuation (Agreement on implementation of Article VII of the GATT 1994).
- * **“Article #”** means headings in the WTO Agreement on Customs Valuation (Agreement on implementation of Article VII of the GATT 1994).
- * **“Customs act”** refers to Customs and Excise Act 20 OF 1998 as amended.
- * **“Customs value of imported goods”** means the value of goods for the purposes of levying Value Added Tax, additional, Customs, Excise and Ad Valorem Duties on imported goods.
- * **“Country of importation”** means country or customs territory of importation; and
- * **“Produced”** includes grown, manufactured, and mined.
- * **“Transaction value”** is price paid or to be paid for goods sold in another country e.g. (South Africa) and exported to Namibia adjusted in accordance with section 77 of the **Customs Act**
- * **“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.
- * **Relationship:** means within the meaning of this policy means persons who are:
 - officers of the same company or chain of companies.
 - legally recognized as partners in business.
 - employer and employee.

- directly or indirectly owns, controls, or holds 5% present or more of the outstanding voting stock or shares of both of them.
 - directly or indirectly controls the other.
 - together directly or indirectly control the third person; or
 - They are members of the same family.
- * **“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.
- * **the terms “identical goods” and “similar goods”** do not include, as the case may be, goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under section 77 of the **Customs Act** because such elements were undertaken in the country of importation.
- * goods shall not be regarded as **“identical goods” or “similar goods” unless** they were produced in the same country as the goods being valued.
- * goods produced by a different person shall be taken into account only **when there are no identical goods or similar goods**, as the case may be, produced by the same person as the goods being valued.

9. SUMMARY

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 the importer's goods was determined.

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.

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The address of your nearest NamRA office can be found in your local telephone directory. If you are unhappy with the treatment you have received at Customs, write to the Manager at the Region where you arrived or to the Head of Customs.