Trade Guide: Customs Valuation

WTO AGREEMENT ON CUSTOMS VALUATION

What is this Agreement and what does it do?

The Customs Valuation Agreement of the World Trade Organization (WTO) sets out a fair, uniform and neutral system for determining the value of imported goods on which customs officials levy duties. This system bars the use of arbitrary or fictitious customs values.

The Agreement was negotiated during the Uruguay Round of Multilateral Trade Negotiations, which was concluded in April of 1994. It elaborates and makes more precise Article VII of the Multilateral Agreements on Trade in Goods — GATT (1947) , and its official name is: "Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994".

All WTO members (offsite link) are Parties to this Agreement, which entered into force on January 1, 1995, and which has no expiration date.

Who benefits from this Agreement?

Any company involved in international trade can benefit from the fair and predictable rules in this Agreement for the valuation of goods for customs purposes.

How can this Agreement help my company?

Transaction Value

The Agreement states that the primary basis for the customs value of imported goods shall be the "transaction value" of the goods - the price that is actually paid or payable when the goods are sold for export. The payment may be direct or indirect. (An example of an indirect payment would be the settlement by the buyer of a debt owed by the seller.)

Under the Agreement, customs authorities may add only the following to a good's transaction value- no other additions are allowed:

- certain costs, if they are incurred by the buyer, that are not included in the price paid or payable for the goods, including commissions and brokerage fees, the cost of containers, and packing costs;
- the value of certain goods and services, if they are supplied by the buyer at reduced cost and are not included in the price, such as: materials, components and parts incorporated in the imported goods; tools, dies or molds used in the production of the imported goods; materials consumed in the production of the

imported goods; and engineering, development, artwork, design work or plans necessary for the production of the imported goods;
- royalties or license fees related to the goods being valued that the buyer must pay as a condition of sale; and,
- the proceeds of any subsequent resale, disposal or use of the imported goods that accrue to the seller.

The Agreement permits importing country legislation to include, or exclude, from customs valuation:

- the cost of transporting the goods to a port or another place of importation;
- the cost of loading, unloading and handling; and
- the cost of insurance.

The Agreement cites certain situations in which the transaction value of imported goods is not acceptable for customs purposes. These arise: when there are restrictions (with some exceptions) on the disposition or use of the goods by the buyer; when the sale or price of the goods is subject to a condition or consideration for which a value cannot be determined; when some part of the proceeds of any subsequent use of the goods by the buyer accrues to the seller; or, with some exceptions, when the buyer and seller are "related" (e.g., they are business partners, employer, employee, officer or director in each other's company.

Other Methods of Customs Valuation

For cases in which it is impossible to determine the transaction value of imported goods, the Agreement provides for other valuation methods. The first alternative is to set the customs value on the basis of the transaction value of identical goods sold for export to the same country. If there are no identical goods, the customs authorities shall use the transaction value of similar goods sold for export to the same country. If identical or similar goods are not sold for export to the same country, the value of identical or similar goods when sold in the importing country may be used. In the alternative, a computed value may be used; the Agreement describes how this value should be calculated. When all else fails, customs authorities shall use "reasonable means consistent with the principles and general provisions of this Agreement" to determine the value of the imported goods.

The Right of Appeal and Transparency

The Agreement states that the customs legislation of each WTO member country shall provide for the right of appeal without penalty by importers, initially to the country's customs administration or an independent body and then to a judicial authority. All laws, regulations, judicial decisions and administrative rulings giving effect to the Agreement shall be published.

Committee

The Agreement established a Committee on Customs Valuation, composed of representatives of each WTO member country. This Committee meets at least once a year and affords members the opportunity to consult on matters relating to the administration of the customs valuation system. A Technical Committee on Customs Valuation was also established by the Agreement under the auspices of the World Customs Organization, an international organization based in Brussels whose purpose is to promote international cooperation on customs matters. The responsibilities of the Technical Committee, which meets at least twice a year, include: examining specific technical problems arising in the day-to-day administration of the Agreement; providing advisory opinions and appropriate solutions for these problems; studying valuation laws, procedures and practices of member countries; and furnishing information and advice on any matters concerning customs valuation that may be requested by member countries.

Can the U.S. Government help me if I have a problem?

Yes. If your business is being adversely affected because another WTO member country is not complying with the WTO Customs Valuation Agreement, contact the Office of Trade Agreements Negotiations and Compliance at the U.S. Department of Commerce. The Center can help you understand your rights under this Agreement and can alert the appropriate U.S. Government officials to make inquiries, if appropriate, with the other country involved to help you resolve your problem.

Disputes under the Customs Valuation Agreement can also, if necessary, be resolved by the U.S. Government through the WTO's dispute settlement process, which is described in the Exporter's Guide to the WTO Understanding on the Settlement of Disputes.

How can I get more information?

The complete text of the WTO Customs Valuation Agreement is available from the Office of Trade Agreements Negotiations and Compliance's WTO Agreements database.

If you think you are facing a foreign trade barrier contact the Office of Trade Agreements Negotiation and Compliance (TANC) through the Report a Trade Barrier form.