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DOMINICA



TRAINING PROGRAMME FOR CUSTOMS BROKERS & TARIFF CLERKS VALUATION OF GOODS

PERFORMANCE OBJECTIVE

Become familiar with WTO Valuation Agreement and learn to apply the rules in determining the customs value of goods.



ENABLING OBJECTIVES

- 1 Discuss the concept of value and customs valuation
- 2 Outline the historical development of Valuation Systems
- 3 Learn the six methods of the WTO Valuation Agreement
- 4 Apply the principles of the WTO Valuation Agreement
- 5 Explain the Incoterms 2010



CONTENTS

- 1 Introduction
- 2 Explaining Customs Value
- 3 Historical Overview of Customs Valuation Systems
- 4 Transaction value method under WTO Agreement
- 5 Other Valuation Methods of WTO Agreement
- 6 Applying Valuation Principles
- 7 Incoterms® 2010
- 8 Case Studies
- 9 Conclusion



INTRODUCTION

- Customs revenue accounts for a significant proportion of the national budgets.
- With high rates of duty the importers are tempted to submit incorrect value declarations.
- Customs Officers have a responsibility to verify that the declared value is the correct value as lower values result in a loss of revenue and higher values may result in money laundering.
- The customs officer cannot rely solely on the importer to present correct values. He must be able to appraise the value submitted.
- The customs officer must therefore have a clear understanding of the principles of valuation as contained in Valuation Schedule 2nd Schedule of the Customs Act No. 20 of 2010



WHAT IS VALUE?

- Value is the measure of desirability of something.
- Value is the measure of the capacity of an object to be exchanged or sold.
- Value may be objective or subjective.
- Value is a judgment issue. It represents the quality of a thing.
- Value is an evaluation of a thing in reference to its usefulness to society, the amount of work need to produce it, the relationship between supply and demand.



CUSTOMS VALUATION

“Customs valuation is a procedure applied to determine the customs value of imported Goods”

If the rate of duty is ad valorem, the customs value is essential to determine the duty to be paid on an imported good.



DUTY DETERMINATION

Customs duty may be determined as follows:

- 1 Specific Rates**
 - based on quantitative description
- 2 Ad Valorem Rates**
 - based on a percentage of the value
- 3 Composite Rates**
 - (a mix of 1 and 2)



HISTORICAL OVERVIEW

Article VII of the GATT (1947) laid down the general principles for an international system of valuation.

- **1950 's – Brussels Definition of Value (BDV)**
 - Normal Market Value (Notional Price)
- **1979 Tokyo Round Valuation Code**
 - Price actually paid or Payable (Transaction Value)
 - 40 countries signed
- **1994 - Uruguay Round –WTO Agreement - Art VII of GATT1994**
 - Transaction Value (Basic principle)
 - 6 Methods of Valuation



BRUSSELS DEFINITION OF VALUE

- Established by European countries pursuing a customs union on 28 July 1953
- Based on (G.A.T.T. 1947) principles
- Explanatory notes published 1960
- 33 contracting parties
- Many other countries utilized the principles.



BDV

Customs Value was based on a notional price concept of normal market value:

"the price that a good would fetch in an open market between a buyer and seller independent of each other,"

Customs would make adjustments to uplift or adjust the value declared to what was considered as the market value regardless of what was actually paid.



THE WTO AGREEMENT

- Originated as a result of multilateral trade negotiations in GATT in 1979 (Tokyo Round)
- Adopted the end of the Uruguay Round (1986 -1994)
- Intended to reduce or eliminate non tariff trade barriers by introducing a more flexible and uniform system of Valuation
- Provides detailed valuation rules expanding and giving greater precision to the general principles established in the GATT



CUSTOMS VALUATION IN DOMINICA

- The 2nd Schedule of Customs Act (20 of 2010) is the Valuation Schedule based on the WTO Valuation Agreement.
- The 2nd Schedule specifies the rules of valuation for imported goods including the methods and the manner in which they may be applied.



OTHER PROVISIONS

- The sequence of methods 4 and 5 can be switched at the request of the importer.
- The Agreement contains provisions for special and differential treatment of developing countries.
- The Agreement is an integral part of the single WTO undertaking, all WTO Members are Members of the Customs Valuation Agreement.



BASIC PRINCIPLE: TRANSACTION VALUE

The Agreement stipulates that customs valuation shall, except in specified circumstances, be based on the *actual price of the goods to be valued*, which is generally shown on the invoice. This price, *plus adjustments for certain elements listed in Article 8*, equals the transaction value, which constitutes the first and most important method of valuation referred to in the Agreement.



DEFINITION OF TRANSACTION VALUE

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



TRANSACTION VALUE - METHOD 1

Aspects that contribute to an acceptable transaction value:

- Price actually paid or payable
- Sold for export
- Can be adjusted in accordance with the provisions of Art. 8
- Majority of commercial importations are valued under transaction value/open market price
- Large number of personal importations also valued under transaction value.



TRANSACTION VALUE - METHOD 1

Conditions to be fulfilled

- Evidence of sale
- No restriction on the disposition or use
- Not subject to additional conditions
- Full prices, unless allowed by Art. 8
- Sufficient information for adjustments
- Buyer and seller not related



TRANSACTION VALUE - METHOD 1

Related Parties (Art. 15)

- They are officers or directors of one another's businesses;
- They are legally recognized partners in business;
- They are employer and employee;
- Any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;
- One of them directly or indirectly controls the other...
- Both of them are directly or indirectly controlled by a third person;
- They are members of the same family



TRANSACTION VALUE - METHOD 1

Specific Adjustments - Article 8

- Commissions and brokerage, except buying commission
- Packing and container costs and charges
- Assists
- Royalties and license fees
- Subsequent proceeds
- The cost of transport, insurance and related charges up to the place of importation (CIF Value)

NB: Costs incurred after importation (duties, transport, construction or assembly are not to be included



TRANSACTION VALUE - METHOD 1

Assist is a term used to describe any of the following goods or services supplied free of charge or at a reduced cost by the buyer for use in the production of imported goods:

- Materials, components parts and similar articles incorporated into the imported goods
- Tools, dies, moulds and similar items used in production
- Materials consumed in production of imported goods
- Engineering, development, artwork, design work, plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the goods



TRANSACTION VALUE - METHOD 1

Customs valuation based on the transaction value method is largely based on documentary input from the importer.

Customs administrations have the right to "satisfy themselves as to the truth or accuracy of any statement, document or declaration."

In the event of doubt Customs must first request further explanations from the Importer and if not satisfied may consider the other valuation methods to determine the Customs value.



FACTORS AFFECTING TRANSACTION VALUE

Following classes of goods cannot be valued under transaction value:

- Goods invoiced no charge
- Consigned goods
- Leased goods
- Trade-ins
- Second hand goods (e.g. motor vehicles and machinery)
- Barter transactions
- Credits in respect of earlier transaction
- Interest for deferred payment
- Export duties and taxes

Requirement for use of transaction value is a “sale”.

Must be a sale for export to the country of importation



METHOD 2: TRANSACTION VALUE OF IDENTICAL GOODS

The transaction value is calculated in the same manner on identical goods if the goods are:

- The same in all respects including physical characteristics, quality, and reputation;
- Produced in the same country as the goods being valued;
- And produced by the producer of the goods being valued.

For this method to be used, the goods must be sold for export to the same country of importation as the goods being valued.

The goods must also be exported at or about the same time as the goods being valued.



METHOD 3: TRANSACTION VALUE OF SIMILAR GOODS

The transaction value is calculated in the same manner on similar goods if:

- Goods closely resembling the goods being valued in terms of component materials and characteristics
 - Goods which are capable of performing the same functions and are commercially interchangeable with the goods being valued
 - Goods which are produced in the same country as and by the producer of the goods being valued.
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- **For this method to be used, the goods must be sold to the same country of importation as the goods being valued.**
 - **The goods must be exported at or about the same time as the goods being valued.**



METHOD 4: DEDUCTIVE VALUE

- When customs value cannot be determined using previous methods it will be determined on the basis of the unit price at which the imported goods or identical or similar goods are sold to an unrelated buyer in the greatest aggregate quantity * in the country of importation.

*The greatest number of units sold at a given price



METHOD 4: DEDUCTIVE VALUE

The starting point in calculating deductive value is the sale price in the country of importation with various deductions to reduce that price to the relevant customs value including:

- Commissions usually paid or agreed to be paid,
- Profits and general expenses
- Transport cost
- Customs duties and other national taxes payable in the country of importation
- Value added by assembly or further processing, when applicable



METHOD 5: COMPUTED VALUE

The customs value is determined on the basis of the cost of production of the goods being valued, plus an amount for profit and general expenses usually reflected in sales from the **country of exportation** to the country of importation of goods of the same class or kind.

Production cost = value of materials and fabrication

Profit and general expenses

Other expenses (Transport, loading unloading and handling charges)

Computed value is the most difficult and rarely used method.



METHOD 6 - FALL-BACK METHOD

When the customs value cannot be determined under any of the previous methods, it may be determined using reasonable means consistent with the principles and general provisions of the Agreement, and on the basis of data available in the country of importation.

To the greatest extent possible, this method should be based on previously determined values and methods with a reasonable degree of flexibility in their application.



APPLYING VALUATION PRINCIPLES

The commercial invoice is the main source of information for establishing/determining value for duty under transaction value method.

Some Relevant Fields:

- Invoice date and no.
- Export date
- BL / AWB No.
- Final Destination
- Route/ Carrier
- Quantity & Description
- Unit Price and Total Price
- Currency of Sale
- Terms of Sale
- Terms of Payment
- Freight - Prepaid / Collect
- Other Charges & Fees



APPLYING VALUATION PRINCIPLES

Discounts

- Discounts are arrangements where the vendor in return for the purchaser undertaking certain obligations or accepting or meeting certain conditions reduces price of imported goods.
- This would be acceptable to Customs when the condition of the discount is fulfilled or met prior to the proper entry of the goods.
- Discounts granted retrospectively are not allowed in determining the customs value.



APPLYING VALUATION PRINCIPLES

Some examples of trade discounts that may be allowed for deduction on in determining the customs value:

- Cash Discounts
- Quantity Discounts
- Discount in Kind
- Bonus for exceeding a given quantity
- Special Introductory discounts
- Late shipment allowance
- Breakage Allowance (for fragile goods)
- Negotiated Discounts

Other discounts must be carefully examined before being allowed.



APPLYING VALUATION PRINCIPLES

Commissions - 2 Types

Commissions are fees paid to an agent for the service of representation in respect of the purchase/sale of goods.

- **Buying: (Not Dutiable)**

- Commission paid by buyer to agent / representative
- Agent facilitates documentation, inspection shipping, payment for buyer on behalf of the buyer.

- **Selling: (Dutiable)**

- Commission paid by seller to agent/representative.
- Agents seeks customs, collects orders, arranges delivery and storage for seller.



APPLYING VALUATION PRINCIPLES

Warranty Charges:

Warranty is a guarantee that goods will be free from defects. It attaches to the goods and is an integral part of the goods.

Payments made for warranty are part of the consideration paid for the goods and therefore part of the price paid or payable.

Royalties & Licence Fees:

When a buyer pays a royalty or license fees related to the imported good as a condition of sale. e.g. Payments made for patents, trademarks, copyrights.

The amount has to be added to the price actually paid or payable.



APPLYING VALUATION PRINCIPLES

Types of Packing:

- **Domestic Packing** - Goods are sold to local purchaser in same package as sold in exporters domestic market.
 - E.G. Shoes sold in bags
- **Substituted packing** - On importer's request, a different packing is used other than that normally used by the vendor domestically.
 - E.G. Shoes sold in boxes

All charges for packing are dutiable.



APPLYING VALUATION PRINCIPLES

- **Replacement goods given in credit for earlier transaction:**

Examples :

- Manufacturing fault in goods previously supplied
- Damage suffered by goods in an earlier shipment
- Goods did not conform with contract specifications

The replacement goods must be valued at the original price and the first shipment must be considered separately.

- **Interest for differed payment:**

- **E.G. Interest charge for deferred payment of imported goods.**

Not regarded as part of Customs Value provided that charges are distinguishable from price paid and rate of interest does not exceed prevailing rate in country where financing was provided.



APPLYING VALUATION PRINCIPLES

Subsequent proceeds

Additional payments paid to the vendor by the purchaser as a result of the subsequent resale, disposal or use of the goods.

- Importer responsible to disclose if subsequent proceeds are payable.
- Subsequent proceeds must be included in price paid or payable if known.
- If not known at time of importation, declared value is unaccepted.



APPLYING VALUATION PRINCIPLES

Value for currency conversion (VFCC):

- The amount (in the currency specified on the invoice) paid or payable for the imported goods. Adjusted in accordance with provisions of the law.
- The rates of exchange to be used to establish the equivalent in local currency units shall provided for this purpose by the Comptroller of Customs and published by him in the manner he considers appropriate.

Value for Duty (VFD)

- The amount (in local currency) on which ad valorem rates of duty are assessed.



INTERNATIONAL COMMERCIAL TERMS

The **Incoterms**[®] rules are an internationally recognized standard and are used worldwide in international and domestic contracts for the sale of goods.

First published in 1936, **Incoterms**[®] rules provide internationally accepted definitions and rules of interpretation for most common commercial terms.

Incoterms[®] rules are revised every 10 years by the **International Chamber of Commerce (ICC)**.



THE 11 INCOTERMS® RULES

Rules for any mode or modes of transport

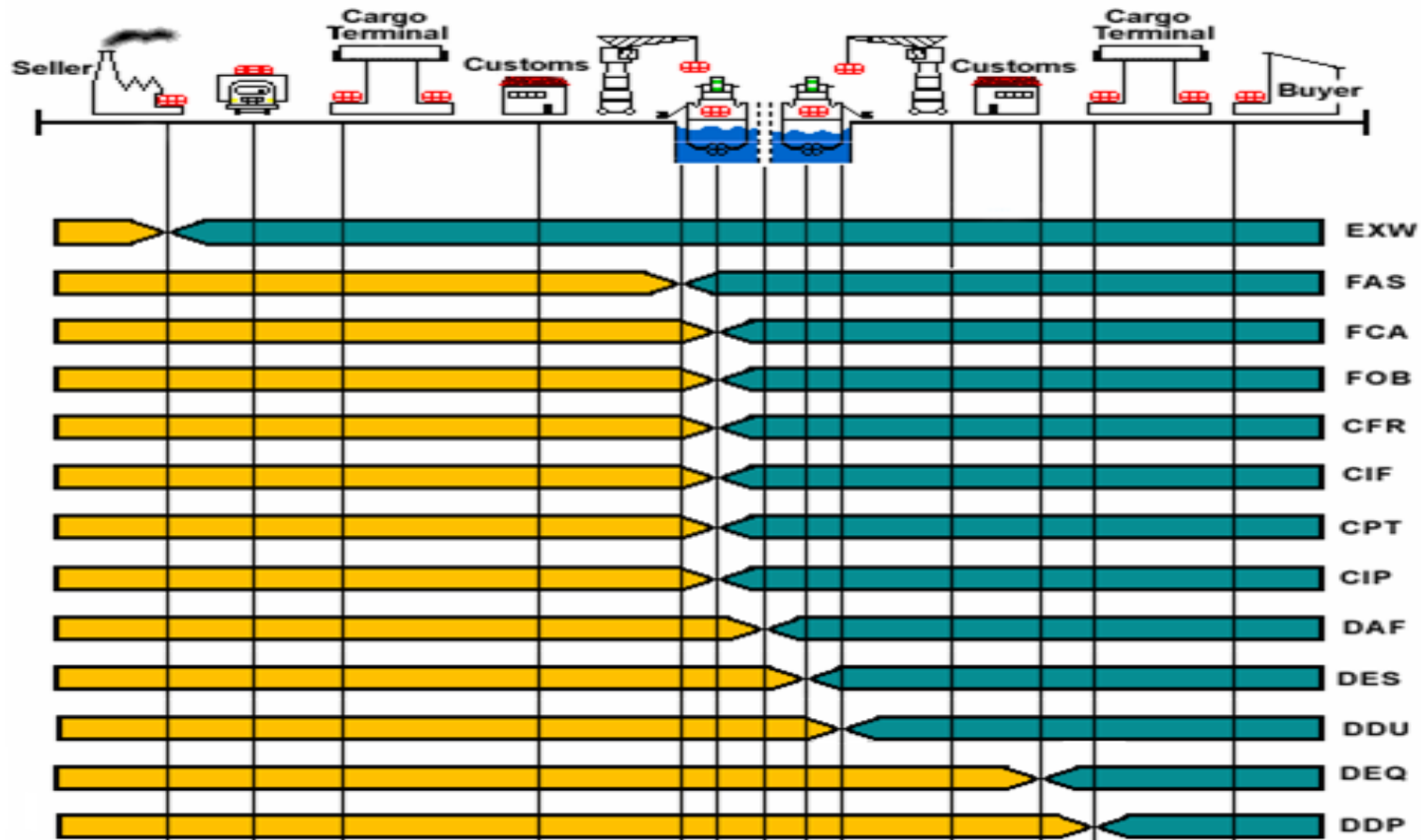
- EXW Ex Works
- FCA Free Carrier
- CPT Carriage Paid To
- CIP Carriage And Insurance Paid To
- DAT Delivered At Terminal
- DAP Delivered At Place
- DDP Delivered Duty Paid

Rules for sea and inland waterway transport

- FAS Free Alongside Ship
- FOB Free On Board
- CFR Cost And Freight
- CIF Cost, Insurance and Freight



WALL CHART FOR INCOTERMS®



CASE STUDIES

Follow the instructions to answer the questions on the handout provided.
Answers will be discussed after completion by participants.



CONCLUSION

- Lesson Summary
- Review of Objectives
- Next Session

THANK YOU FOR YOUR ATTENTION!



A consignment of 1000 cartons of chicken parts was imported from the USA valued at \$ 5000.00 US (FOB). The invoice included other charges as follows:

\$250.00 - selling

Commission, \$150.00 - buying commission, packing and loading - \$325.00 and \$400.00 inland freight.

Ocean Freight is collected and not included on the invoice. A Bill of Lading attached shows that \$880.00 is due for freight. There is also a charge of EC \$500.00 for unloading due to DASPA.

What is the Customs Value of the goods?



- **ABC Builders Int.**, a construction company in your country, has won the contract to build a shopping mall in your country. The construction period is expected to be twelve months. ABC Builders Int. has decided to lease some of the equipment they will need to do the job. They have agreed to lease the following equipment from **XYZ's Rentals** of Miami for a twelve month period:

- 1 CAT 930K Front end loader- US 5000.00 per month
- 1 CAT DC9 Track bulldozer -US 5000.00 per month
- 2 JCB Site Masters -US 1000.00 per month each
- Freight to your country and back to XYZs is ABC Builders Int.'s responsibility.

Freight to your country is \$10,000.00 US and the return freight is expected to be the same. ABC Builder's Int. has produced a cancelled cheque for \$32,000 made out to XYZ Rentals to cover the following:

- US \$12,000 for 1-month rental
- US \$20,000 as deposit to cover return guarantee.
- ABC Builder Int. also presented a cancelled cheque for US \$10,000 made out to Tropical Shipping for freight.

What would you take into consideration in determining the Customs Value?



Allan Joseph imported a vehicle and declared that he purchased a used **BMW 525**: 2005 year model for £1000.00 from his brother residing in the UK. He has presented you with an invoice and a supporting letter which confirms this value. The letter is witnessed by a Justice of the Peace, which establishes that £1000.00 is the price actually paid. He also has a bill of lading which shows that the freight was prepaid and amounted to £800.00.

**What would take into consideration in declaring the Customs Value?
Explain your answer.**



• A shipment of sewing machines consigned to Frances Sewing Centre with the following information:

- 200 sewing machines @ 250.00: \$50,000.00
- Promotional Discount 5%: \$2,500.00
- Bonus Discount on previous shipments 5%: \$2,500.00
- Freight and insurance are both included
- Total CIF: \$45,000.00

Will this value be accepted by Customs for duty purposes?

