

**In the Name of God, the Most Merciful, the Specially Merciful**

**The Approval of Council of Ministers of the Islamic Republic of  
Afghanistan in regards to the Regulation on Determining the Price of  
Goods in Customs**

**No: 38**

**Date:** 23<sup>rd</sup> January 2006

This regulation is approved under 5 Chapters and 22 Articles by the Council of Ministers. The regulation is enforced starting its approval date and shall be published in the Official Gazette.

Hamed Karzai, the President of the Islamic Republic of Afghanistan

**Table of Contents**  
**Regulation on Determining the Price of Goods in Customs**  
**Chapter One**  
**General Provisions**

<b><u>Article</u></b>	<b><u>Title</u></b>	<b><u>Page</u></b>
<b>1:</b>	<b>Basis .....</b>	<b>4</b>
<b>2:</b>	<b>Terms and Expressions .....</b>	<b>4</b>

**Chapter Two**  
**Methods of Determining Customs Price of Goods**

<b>3:</b>	<b>Method First.....</b>	<b>6</b>
<b>4:</b>	<b>Method Second.....</b>	<b>6</b>
<b>5:</b>	<b>Method Third.....</b>	<b>6</b>
<b>6:</b>	<b>Method Fourth.....</b>	<b>7</b>
<b>7:</b>	<b>Method Fifth.....</b>	<b>7</b>
<b>8:</b>	<b>Method Sixth.....</b>	<b>8</b>
<b>9:</b>	<b>Inclusion of all Parts in Determining Customs Price of Goods.....</b>	<b>8</b>
<b>10:</b>	<b>Dispatch of the Documents and Sample of the Suspected Goods.....</b>	<b>8</b>
<b>11:</b>	<b>Fast-decaying Goods .....</b>	<b>9</b>

### Chapter Three

#### Methods of Purchase, Sell, Delivery, Insurance Costs, and Transportation of Goods

<b>12:</b>	<b>Purchase and Sell of the Commercial Goods.....</b>	<b>9</b>
<b>13:</b>	<b>The Responsibilities of the Importer of Goods .....</b>	<b>11</b>

### Chapter Four

#### Unauthorized Issues in Determining Customs Price

<b>14:</b>	<b>Documents lacking credibility.....</b>	<b>11</b>
<b>15:</b>	<b>Transaction Price.....</b>	<b>12</b>
<b>16:</b>	<b>Allocation of Price for the Export of Goods.....</b>	<b>12</b>
<b>17:</b>	<b>Lack of Documentation Based on Information Provided by the First Claimer..</b>	<b>12</b>
<b>18:</b>	<b>Account of Expenses.....</b>	<b>12</b>
<b>19:</b>	<b>Provision of Invoice and Other Documents.....</b>	<b>12</b>
<b>20:</b>	<b>Providing Information and Documents.....</b>	<b>13</b>

### Chapter Five

#### Miscellaneous Provisions

##### Penalties

<b>21:</b>	<b>Penalties.....</b>	<b>13</b>
<b>22:</b>	<b>Date of Enforcement.....</b>	<b>13</b>

## **Basis**

### **Article 1:**

This regulation has been formulated with a consideration of the provision of Paragraph 2 of Article 24 of Customs Law. The regulation will help in establishment of a rational, fair and identical system of determining price of goods and prevention of document and statements fabrication in determining of price at the customs.

## **Terms and Expressions**

### **Article 2:**

The following expressions in this regulation have the following meanings:

- 1-Customs Price of Goods:** It refers to transactional price of the goods.
- 2-Transaction Price of Goods:** It refers to the real price of imported goods, paid or payable including all costs, by the customer to the owner/seller of goods.
- 3- Customs Values of Goods:** It refers to the total customs price of goods determined by the percentage code of tariff.
- 4-Invoice:** It refers to the receipt issued by the selling company or a representative of the company. It indicates the cost, specifications, variety, quantity, weight, and amount of goods as well as the names of the seller and customer (buyer).
- 5-Packing List:** It refers to a document showing the contents of the box, carton and package, item wise or jointly.
- 6-Bill of Loading:** It refers to a document that indicates number of boxes, carton or packages or weight of the goods.
- 7-Transit Form:** It refers to a document issued by the officials of the country from where the goods are transited.
- 8- Insurance Form:** It refers to a document issued by the insurance company and it indicates the features of the insured goods.
- 9-Hygienic Certificate of Goods:** It refers to a document issued by the officials of the exporting country. It indicates that the imported goods are hygienic.

**10- Parcel Card:** It refers to a document that indicates the number of packages, weight, type, sender and receiver. It is prepared by the manufacturing country.

**11-Airway Bill:** It refers to a document prepared by the airline. It indicates the date of the flight (by which the goods are transported), number of packages, weight, variety of goods, final destination, receiving entity and identity of the owner.

## **Chapter 2**

### **Methods of Determining the Customs Price of Goods**

#### **First Method**

##### **Article 3:**

The Customs Price of Goods is determined on the basis of Invoice, Packing List, Bill of Transportation, Health Certificate and Contract in accordance with the provision of article 9 of this regulation.

#### **Second Method**

##### **Article 4:**

If the price of goods was not determined based on the provisions of article 3 of this regulation, it will be determined on the basis of the price of similar goods with the consideration of the following conditions:

1. The physical specifications shall not be different (from similar goods).
2. They should not be different from a reliability and popularity point of view.
3. Shall have the same trademark.
4. Shall be the same country products.
5. The time gap between the newly imported goods and the similar goods that have already been processed shall not be more than (90) days.

#### **Third Method**

##### **Article 5:**

If the price of goods was not determined based on the provisions of articles 3 and 4 of this regulation, it will be determined on the basis of the price of the similar goods with the consideration of the following conditions:

1. The physical specifications shall be similar.
2. Their ingredients shall be the same.
3. Shall be usable for the same means.
4. Shall have the same reliability and popularity.
5. Shall have the same trademark.

6. Shall be the same country products.
7. Shall be exchangeable from quality point of view.
8. A unit of one good should be equal to a unit of the other.
9. The time gap between the newly imported goods and the similar goods that have already been processed shall not be more than (90) days.

### **Method Forth**

#### **Article 6:**

If the price of goods was not determined based on the provisions of articles 3 through 5 of this regulation, it will be determined on the basis of Standard Price (Highest Price in the Local Market). In such a case, from the time the goods enter customs to the time they go to the marketplace, the following costs will be issued:

1. Transport and delivery service costs
2. Brokerage costs.
3. Import tax, tax and customs damages.
4. Profit of trader
5. All other related costs

### **Method Fifth**

#### **Article 7:**

If the price of goods were not determined based on the provisions of articles 3 through 6 of this regulation, it will be determined based on the Accounting Method. In this method, all the expenses of goods from the beginning until they reach customs will be calculated. These expenses include:

1. Cost of raw materials
2. Cost of production
3. Wage of workers
4. Costs of Design and Planning.
5. Costs included in article 9 of this regulation
6. All other expenses that have been paid by the company.

## **Method Sixth**

### **Article 8:**

If the price of goods can not be determined based on the provisions of articles 3 through 7 of this regulation, some details related to the goods will be ignored, such as colour, quantity, period etc and price will be determined on the basis of one of the aforesaid methods.

### **Inclusion of all Parts in Determining Customs Price of Goods**

#### **Article 9:**

The following issues will be included in Determining Customs Price of Goods only if they are not included in the original given price of goods and are separately presented in accordance with the methods of purchase of goods indicated in the Third Chapter of this regulation:

1. Transport and delivery service costs after the arrival of goods in the determined location.
2. Packaging cost, protection and maintaining or technical services until delivery of goods to the determined place.
3. Cost of Toll (teketana) at the time of purchase
4. Brokerage costs.
5. Import tax, compensation, payable damages and other taxes to the government of the sender country of imported goods.
6. Loading and offloading costs
7. Insurance Costs

### **Dispatch of the Documents and Sample of the Suspected Goods**

#### **Article 10:**

When the price of the imported goods are suspected and the local customs (import tax customs) determines a price and the owners of goods are not satisfied with such a price, the local customs is under the obligations to send the documents related to the goods along with their samples (in Sealed and Conserved mode) to the General Directorate of Customs for the determination of price.



## **Fast-decaying Goods**

### **Article 11:**

The Customs Price of Fast-decaying goods, if their price determining process is delayed because of the application of determining methods and criteria and as a result they lose quality, will be determined based on average price of the wholesale market, seasonal changes in the price of fruits and vegetables etc in accordance with the provision of article 26 of Customs Law.

## **Chapter Three**

### **Methods of Purchase, Sell, Delivery, Insurance Costs, and Transportation of Goods**

#### **Purchase and Sell of the Commercial Goods**

### **Article 12:**

In order to prevent diverse understanding of the International Trade Terms and the risk in price determination of customs goods and also in order to inform and assure the parties (buyer and seller) engaged in the contract based on the principles of World Customs Organization (WCO) and World Trade Organization (WTO), purchase and sell of the trade goods are handled based on the following methods:

1. Purchase of goods from the workplace (EXW OR EX-WORKS): In this method of purchase the seller provides the goods to the customer in the workplace (factory, industrial unit, store). The customer accepts all the costs of wastes and (administration) expenses caused by delivery (transportation) of goods.
2. Delivery of Goods to the Determined Place (FCA OR FREE CARRIER): In this type of purchase, the seller clears the goods from the customs and transfers it to an already determined location and submits it to the transport agent introduced by the customer. This term (FREE CARRIER) is used for any kind of delivery/transportation, including animals.
3. Delivery of Goods near the Boat/Ship (FAS OR FREE ALONGSIDE SHIP): In this type of purchase the seller submits the goods to the transport agent introduced by the customer, in the harbor from where goods are loaded for shipping. The seller does not have any responsibility in case of loss or damage of good once he submits the goods to the agent.
4. Delivery on the Ship Deck (FOB OR FREE ON BOARD): In this type of purchase the seller submits the goods to the transport agent introduced by the customer.

5. Cost and Fee of Transportation/Delivery (CFR OR COST AND FREIGHT): In this type of purchase the seller is held responsible for the cost of transportation/ delivery of all the way to the harbour of the receiver that is already determined. The responsibility of lose or damages will go to the customer after the delivery.
6. Cost, Insurance and Transportation/Delivery Fee of Goods (CIF OR COST, INSURANCE AND FREIGHT): In this type of purchase, the seller is held responsible for transportation cost and insurance of the goods to the determined place.
7. Paid Expenses of Transportation of Goods (CPT OR CARRAGE PAID TO): In this type of purchase the seller is responsible for the cost of transportation to the determined location. After the delivery, if goods lost or damaged, it will be a responsibility of the customer. This type of purchase is used for any kinds of goods, including animals.
8. Transportation Cost and Insurance of Transportation CIP OR CARRIAGE INSURANCE AND PAID): In this type of purchase, the seller except for the responsibilities mentioned in the item (6) of this article, will pay the insurance of goods in case of likely damage.
9. Delivery of Goods in Frontier DAF OR DELIVERED AT FRONTIER): In this type of purchase, the seller is responsible for all the expenses until the goods reach the frontier (determined location). Once in the frontier, the responsibility will go to the customer. This method is used in transportation by train and Highway etc.
10. Delivery of Goods from the Ship (DES OR DELIVERED EX SHIP): In this type of purchase, the seller delivers the goods to the customer in the deck of a ship (in a determined port). Compensation of damages caused by likely risks will be a responsibility of the seller until the delivery takes place.
11. Delivery of Goods in the Dock of a Determined Port (DEQ OR DELIVERED EX QUAY): In this type of purchase, the seller delivers the goods to the customer before clearance to enter to a determined dock of a port. All the expenses related to the submission of goods including payments and damages will be a responsibility of the seller.
12. Delivery of Goods in a Determined Location without Costs of Clearance, Payments and Customs Damages: (DDU OR DELIVERED DUTY UNPAID): In this type of purchase, the seller delivers the goods to the customer in a determined location, in the country where the goods are imported. All the expenses and compensation of damages caused by likely incidences will be a responsibility of the seller until the goods enter customs.
13. Delivery of Goods in a Determined Location with Costs of Clearance, Payments and Customs Damages (DDP OR DELIVERED DUTY PAID): In this type of purchase, after making all the payments and expenses including

taxes and all customs damages, the seller delivers the goods to the customer in a determined location, in the country where the goods are imported.

### **The Responsibilities of the Importer of Goods**

#### **Article 13:**

In order to apply the effective customs rules, the importers are under obligation to adjust their purchase and sales process according to the methods indicated in the provisions of this regulation.

### **Chapter 4**

#### **Unauthorized Issues in Determining Customs Price**

##### **Documents lacking credibility**

#### **Article 14:**

- 1- The trade documents of business deals, whose parties are relatives, are not acceptable; the customs price determination also takes place according to the methods in the provisions of this regulation. Relatives for this purpose is defined as the children, spouse, parents, grand parents, or first hand family members of one's husband or wife.
- 2- The following individuals are also effected by the provision of the (1) paragraph of this article.
  1. If the seller or customers are employees or trade managers of the same person (company owner etc)
  2. If the parties are legal business partners of one another.
  3. If the parties are employee or employer of one another.
  4. If the person has directly or indirectly the right for a minimum 5% of shares.
  5. If one of the parties directly or indirectly controls the other or controlled by the third party.
  6. If the seller and customer are representative, distributor or business agent for one another.

### **Transaction Price**

#### **Article 15:**

If goods are used in a free circulation in the third country during the time gap between selling and delivery (from customs), the customs price of goods is determined according to its transaction price.

### **Allocation of Price for the Export of Goods**

#### **Article 16:**

The amounts allocated by the seller directly or indirectly, freely or as a low sales cost of manufacture will not be considered in determining the customs price of goods, unless it is not included in the payable cost of goods.

### **Lack of Documentation Based on Information Provided by the First Claimer**

#### **Article 17:**

If for determining the customs price of goods except for the information provided by manufacture, seller or their representatives other information is provided, the customs officials are under obligation to inform the claimer about the source of such an information. In such a case, the information provided by the first claimer is not documented.

### **Account of Expenses**

#### **Article 18:**

Expenses for the engineering services, research and innovations in the manufacture industrial or art projects, design, sketch and planning for the manufacturing of imported goods that take place out of Afghanistan, are not considered excluded and shall be counted in determining the customs price of goods.

### **Provision of Invoice and Other Documents**

#### **Article 19:**

1. The importer is under obligation to provide the officials of customs with invoice and all other documents related to the goods, in order to determine the price of goods.
2. If the officials of the customs are unsure of the accuracy of the Invoice and other documents (or find them suspected) mentioned in paragraph (1) of this article, they may ask the importer to provide more information and inform the importer of the existing suspicion. The importer is under obligation to provide the Invoice and all real documents within 10 working days.

## **Providing Information and Documents**

### **Article 20:**

- 1- The claimer is under the obligation to provide the following information and documents to the officials of customs when asked for:
  1. Information or documents regarding the suggested price of the goods.
  2. Information and other documents that are considered necessary for the determination of the customs price of goods.
- 2- If the customs officials suspect the Transaction Price of Goods, they may seek information from the selling company, transport company or any other related entities through electronic means with the expenses of (paid by) importer.

## **Chapter 5**

### **Miscellaneous Provisions**

#### **Penalties**

### **Article 21:**

- 1- If an official of the customs who is obliged to perform his/her duties according to the provisions of Customs Law and this regulation, facilitates submission of false documents or false statements and claims that can waste/damage customs revenues, or if he/she ignores his/her legal duties, will be punished based on the provisions of the Penal Law by the authorized court.
- 2- The official involved in such a violation in addition to the penalty mentioned in the (1) paragraph of this article will also be fined to an amount equal to the damage.

#### **Date of Enforcement**

### **Article 22:**

The regulation is enforced from its approval date and shall be published in the Official Gazette.