

The Consulting Firm “Dikke International” Ltd.

**Resolution N 843
of the Cabinet of Ministers
of the Republic of Georgia
“Concerning Approval of the Instructions on
Order of Definition of Customs Value of
Goods Imported to the Territory of the
Republic of Georgia”**

19, Lermontov Str., Tbilisi, 380007

Phone: + 995 8832 93 20 76, 93 59 65

Fax: +995 (32) 001127 or +995 (32) 001077

E-mail: dikke@dikke.com.ge

CABINET OF MINISTERS OF THE REPUBLIC OF GEORGIA

R E S O L U T I O N No.843

December 5, 1994, Tbilisi

Concerning Approval of the Instructions on Order of Definition (Determination) of Customs Value of Goods Imported to the Territory of the Republic of Georgia

For the purpose of fulfilment of requirements of the laws of the Republic of Georgia "On Excise" and "On Value - Added Tax" and for the ensuring of further increase in revenues of the budget of the Republic of Georgia as well, the Cabinet of Ministers resolves:

1. The Instructions "On Order of Definition of Customs Value of Goods Imported to the Territory of the Republic of Georgia" to be approved.
2. The Customs Department of the Republic of Georgia to be charged with:
 - working out the forms of declaration of customs value and order of its filling in within 2 weeks from the day of the adoption of this resolution;
 - carrying out the necessary measures for the fulfilment of requirements of the Instructions approved by this resolution and ensuring of staffing of high-qualified specialists;
 - working out the status of an Applicant of declaration (Customs broker) and produce it together with the corresponding resolution to the Cabinet of Ministers for its approval in terms of 1 month;
 - to ensure the detailed learning of above mentioned resolution and implicit fulfilment of its requirements by Applicants.
3. The Resolution of the Cabinet of Ministers of the Republic of Georgia comes in force from January 1, 1995.
4. This resolution to be published in media and to be TV-broadcasted.

Prime-Minister

of the Republic of Georgia

O. Patsatsia

***Approved
by the Resolution No. 843 of
the Cabinet of Ministers of
the Republic of Georgia***

**Instructions
Concerning Order of Definition of Customs
Value of Goods Imported to the Territory of
the Republic of Georgia**

1. General Provisions

1. The present instructions are worked out on the basis of the laws of the Republic of Georgia “On Excises” and “On Value - Added Tax”. These instructions define value of goods being imported to the territory of the Republic of Georgia. Customs value of goods is the object of taxation when paying customs duties, customs fees, value-added tax and excises. It is the basis of levy of fines and other sanctions specified by the legislation of the Republic of Georgia in case of breach of legal customs regulations as well.

Customs value of goods is used:

- a) for taxation on goods;
- b) for external economic and customs statistics;
- c) for state regulation of trade-economic relations connected with value of goods including external economic transactions and currency control of accounts with bank and their correspondence with the legal acts of the Republic of Georgia.

2. Customs Value of Goods and System of its Definition

1. System of definition of customs value of goods is based on common principles of customs estimation established all over the world and is spread on goods being imported at the customs territory of the Republic of Georgia. The order of use of customs value of goods being imported at the territory of the Republic of Georgia is established by the Cabinet of Ministers of the Republic of Georgia on the grounds of the regulations of the present law (code).

3. Declaration of Customs Value of Goods

1. Applicant (declarant) should declare the customs value to the customs body of the Republic of Georgia on crossing the customs border of the Republic of Georgia. Order and terms of imported goods and the form of declaration are established by the Customs Department of the Republic of Georgia in correspondence with the legislation of the Republic of Georgia.

2. The customs value of goods is determined in accordance with methods of customs value established by the present instructions. The correctness of customs value of goods is checked by the customs body of the Republic of Georgia which carries out the official registration of goods.

4. Protection of Confidence of Information

1. If information about the customs value of goods declared by the applicant is confidential, the customs body can use it only for purpose of the customs and cannot pass it to any third person including state bodies without special permit of the applicant, except cases specified by the legislative acts of the Republic of Georgia. Should the customs body of the Republic of Georgia or its officials divulge commercial secret or confidential information they are answerable in accordance with the legislation of the Republic of Georgia.

5. Rights and Responsibilities of Applicant (Declarant)

1. Customs value and necessary data for its definition declared by the applicant should be a reliable, defined in quantity and documentary confirmed information.
2. Together with confirmation of declared customs value the applicant should produce the contract, invoice and transport documents. If customs body calls in question the correctness of the data declared by the applicant in customs declaration the applicant has a right to confirm the correctness of the data. If the applicant cannot confirm the correctness of declared data the customs body has a right to announce impossibility of the method of estimation of customs value used by the applicant.
3. In case of need to specify the customs value of goods declared by the applicant the applicant can make a request to customs body of the Republic of Georgia for utilization of the declared goods on the on the grounds of mortgage or guarantee of the authorized bank or pay customs duties in accordance to the customs value of goods defined by the customs body of the Republic of Georgia.
4. All the extra expenses for the further definition of customs value declared by the applicant or for the necessary additional information connected with customs body are paid by the applicant.

6. Rights and Responsibilities of a Customs Body

1. Customs body of the Republic of Georgia carrying out control over the correctness of the customs value of goods has a right, taking into consideration Article 5 of the present instructions, to make a decision on the correctness of the customs value goods declared by the applicant.
2. Should there are not data confirming the correctness of definition of the customs value of goods declared by the applicant or should there are grounds that the declared data are not reliable and/or sufficient, a customs body of the Republic of Georgia can define the customs

value of goods independently by methods of definition of customs value given in the present instructions and on the basis of existing data (including information about prices of identical or similar goods).

3. Should applicant claim in written form, the customs body of the Republic of Georgia is obliged to present the applicant the explanation in written form of those reasons for which the customs values declared by applicant cannot be used for customs duties in term of 3 months. In case of disconsent of the applicant to the definition of customs value of goods the decisions of the customs body can be disputed in accordance with customs code of the Republic of Georgia.

7. Charging, Paying and Collecting of Taxes

1. Charging, paying and collecting of taxes duties on the grounds of customs value of goods are carrying out in accordance with Customs Code of the Republic of Georgia. The increase in terms of customs registration of commodity occasioned by definition of its customs value cannot be used by the organization - importer as an actual delay of taxes time-limit. Fine for the every delayed day will total 1% and will be added to tax estimated by customs bodies from the customs value of goods.
2. Taxes will be paid in to the corresponding budget of the Republic of Georgia.

8. Order of Definition of Customs Value

1. Definition of customs value of goods imported to the customs territory of the Republic of Georgia is carrying out by the following methods:
 - a) according to the transaction price of imported goods;
 - b) according to the transaction price of identical goods;
 - c) according to the transaction price of similar goods;
 - d) with the deduction in value;
 - e) with the addition in value;
 - f) by emergency method.
2. The method according to the transaction price of imported goods is considered to be the main method of definition of customs value. If it is found to be impossible to use the main method the every above enumerated method is used in consecutive order. At the same time, the every posterior method is used if customs value has not been determined by the preceding one. Methods of deduction in value and addition in value may be used in any sequence.

9. Method of Definition of Customs Value According to the Transaction Price of Imported Goods (Version 1)

1. Customs value of goods imported to the customs territory of the Republic of Georgia is a transaction price, actually paid or to be paid at the moment of entering the customs territory of

the Republic of Georgia (to port or other place of import). Definition of customs value in price consists of following components (if they haven't been included there before):

- a) cost of delivery of goods to airport, port or other place of entering the customs territory of the Republic of Georgia:
 - cost of transportation;
 - expenses of loading and unloading;
 - insurance;
- b) Expenses, charged by buyer:
 - commissions and mediator fees, excepting commissions for purchasing;
 - cost of containers and other multi-used packing if they are considered together with goods to be estimated in whole according to commercial nomenclature;
 - cost of packing, including cost of packing material and packing labour;
- c) Part of corresponding value of goods and service been offered by buyer in direct or undirect way for purpose of production, utilization or export for sale of estimated goods, at reduced prices or free of charge:
 - part of value of those raw materials, materials semi-finished products and other completing articles which are components of estimated goods;
 - part of value of those tools, stamps, forms and other similar subjects for producing estimated goods;
 - part of value of materials (combustibles, fuel, etc.) expended for the production of estimated goods;
 - corresponding part of value of necessary engineering works, design, drafts and outlines, have been made abroad and used for the purpose of production of estimated goods;
- d) corresponding part of value of those goods (works, service) produced by importer in direct or undirect way free of charge or at reduced prices for the purpose of their utilization (sale and production) when exporting the estimated goods:
 - raw materials, materials, machine parts, semi-finished products and other completing articles which are components of estimated goods;
 - tools, stamps, forms and other similar subjects for producing estimated goods;
 - subsidirial materials (combustibles and fuel) expended for the production of estimated goods;
 - engineering and construction works, design, drafts and outlines have been made at the territory of the Republic of Georgia and necessary for the production of estimated goods;
 - licences and other taxes on utilization of intellectual property which are to be used by buyer in direct or undirect way as a condition of sale of estimated goods;

- part of profit of the importer from any further sale or use of estimated goods to be return to the exporter;
- e) amount of part of direct or undirect income of the buyer from any further sale , utilization or transfer of estimated goods, at the territory of the Republic of Georgia.
2. The mentioned method cannot be used for the definition of customs value of goods, when:
- a) there are limits against buyer's rights on estimated goods, except:
- limits fixed by the legislation of the Republic of Georgia;
 - limits of geographical areas where goods can be sell by second time;
 - limits which actually have no effect on price of goods;
- b) price of sale and transaction depends on protection of those conditions which cannot be foreseen;
- c) parties of transactions are interdepend persons except those cases when their interdependence had no influence on transaction prices that is to be confirmed by applicant. At the same time interdependent persons are persons that answer at least one of the following conditions:
- any party of the transaction (physical person) or any official from the side of the party is at the same time the official from the side of the other party of the transaction;
 - parties of the transaction are joint owners of the enterprise;
 - parties of the transaction are connected with each other by labour relationship;
 - any party of the transaction holds a share or has a stock with vote in a fixed capital of the other party and this share totals not less than 5% of this capital;
 - both parties of transaction are connected by the third person;
 - both parties of transaction control over the third person;
 - any party of the transaction is controlled by the other party of the transaction;
 - parties of transaction are kindred.

10. Method of Definition of Customs Value of Goods According to the Transaction Price of Identical Goods (Version 2)

1. For the definition of customs value of goods by method of estimation according to the transaction price of identical goods there is to be used the transaction price of identical goods with protection of terms and conditions given in the present article. At the same time, identical goods are the goods which are similar to estimated goods in all aspects, including the following ones:
- physical descriptions;
 - quality and image at market;

- country of origin;
- producer.

Some insignificant external distinctions cannot be the reason of refusal to define the goods as identical if in other aspects they correspond to the demands of the present point.

2. The transaction price of identical goods will be accepted as a basis for definition of customs value, when:
 - a) these goods are sold for the export to the territory of the Republic of Georgia;
 - b) these goods are imported simultaneously with the estimated goods or not before 30 days of import of estimated goods;
 - c) these goods are imported in the same quantity and/or in the same terms and conditions. In case when identical goods are imported in different quantity and/or in different terms and conditions, the applicant should make corresponding adjustment of their prices taking into consideration this difference and with necessary confirmation of prices correctness to the customs body of the Republic of Georgia.
3. The customs value to be estimated according to the transaction price of identical goods should be adjusted in consideration with the expenses mentioned in Article 9. of the present law. The applicant should adjust the prices on the grounds of correct and documentarily confirmed data.
4. If, when using the mentioned method, there are more than one price for the transaction of identical goods, the lowest price should be used for the definition of the customs value of imported goods.

11. Method of Estimation According to the Transaction Price of Similar Goods (Version 3)

1. For the definition of customs value of goods by method of estimation according to the transaction price of similar goods there is to be used the transaction price of similar goods with protection of terms and conditions given in the present article. At the same time similar are the goods which are not identical in all aspects but have similar descriptions and consist of similar components. Whereas, they have the same functions as estimated goods and can be interchangeable.

For the definition of similarity of goods we can use the following aspects:

- quality, trade mark and image at the market;
- country of origin;
- producer.

2. For the definition of customs value by estimation method according to the transaction price of similar goods the points 2 and 4 of Article 10 are used.
3. When using method of customs value on basis of mentioned points of Article 10 and the present article:

- a) goods are not considered to be identical or similar to estimated goods if there aren't produced in the same country as the estimated goods;
- b) goods produced by another person should be considered only in case when producer of estimated goods does produce neither identical, nor similar goods;
- c) goods are not considered to be identical or similar if their drafts and engineering works, their design, outlines and other works are made in the Republic of Georgia.

12. Method of Estimation by Deduction in Value (Version 4)

1. Definition of customs value on the basis of method of deduction in value is carried out in case when estimated identical or similar goods are to be sold at the territory of the Republic of Georgia without any alterations in their original state.
2. The basis of using of the method of deduction in value for the definition of customs value of goods, is a price of those goods unit which will be sold at the territory of the Republic of Georgia in big batches and not later than 30 days from the date of entry, and which will be bought by the party of the transaction who is not a person dependent from the seller, by prices of estimated identical or similar goods.
3. The following components are deducted from the price of unit of goods:
 - a) expenses for commissions, income added price and total expenses connected with the sell of imported goods of the same kind and class in the Republic of Georgia;
 - b) amounts of customs taxes connected with import and sale of goods, customs duties and other taxes under payment in the Republic of Georgia;
 - c) transport, insurance, loading - unloading expenses.
4. In case when there is no possibility to sell identical or similar goods in their original state and in the estimated prices of the moment of entry, the alterations in price of considering added value of remade unit of goods is used keeping to conditions of points of Articles 2 and 3.

13. Method of Estimation by Addition in Value (Version 5)

1. Definition of customs value of goods by method of addition in values of goods is carried out using the price which is combined of following components:
 - a) value of spent materials for the estimated goods and other expenditures;
 - b) total expenses for imported goods of same kinds into the Republic of Georgia: transport and loading-unloading expenses, insurance and other expenses before entering the customs territory of the Republic of Georgia;
 - c) common profits of exporter after importing goods into the Republic of Georgia.

14. Emergency Method (Version 5)

1. If customs value of goods cannot be defined by methods of definition of customs value of goods, mentioned in Articles 9-13 and, used by applicant in consecutive order or, if customs body argumentarily considers that these methods cannot be used, the definition of customs value of goods is carried out in correspondence with world practice.

When using the emergency method the customs body of the Republic of Georgia gives the applicant the information about prices it has in its disposal.

2. The following items cannot be used when defining customs value of goods by the reserve method:
 - a) price of goods at domestic market of the Republic of Georgia;
 - b) price of goods of country-exporter for export to third country;
 - c) price of goods of Georgian origin at domestic market of the Republic of Georgia;
 - d) unauthorizebly fixed or non-confirmed prices of goods.