

Draft Decree of the Prime Minister concerning Customs Valuation

According to the Article (7) of GATT

Article (1): The customs value of imported goods shall be the transaction value according to the provisions of the agreement on implementing article 7 of GATT which is the contractual value of the transaction. I.e the price actually paid or payable for the goods when sold for export to Yemen, taking into account costs which were not covered that include:

1. commissions and brokerage, except for buying commissions
2. the cost of containers which are treated as being a part of the goods i.e. one unit
3. the cost of packing and packaging and substances that were consumed in the production of the imported goods
4. the value of goods and services supplied by the buyer free of charge or at a reduced value for use in connection with the production of the imported goods
5. engineering , development, artworks, and design works provided that they have not been implemented in Yemen
6. materials, components, and similar parts incorporated in the imported goods as well as tools, moulds, and similar items used in the production of the imported goods
7. royalties and license fees related to the goods that the importer shall pay for using a right of intellectual property rights, if they are not included in the price actually paid or payable
8. the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller
9. the cost of loading, insurance and others to the port or place of importation

The transaction value shall be computed on objective bases.

Article (2): The customs value of imported goods shall be the transaction value. That is the price actually paid or payable for the goods shall be under the following provisions:

- 1- there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions stated in the applied laws
- 2- the sale or price of the imported goods is not subject to some condition or consideration for which a value can not be determined with respect to the goods being valued

- 3- 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.
- 4- the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable under the following provisions:
 - a) the relationship does not influence the price
 - b) the importer demonstrates that such value closely approximates to one the test values

Persons shall be deemed to be related only if:

- they are legally recognized partners in business
- they are employer and employee
- they are officers or directors of one another's businesses
- any person directly or indirectly owns, controls or holds 5 percent or more of the outstanding voting stock or shares of both of them
- one of them supervises or controls the other
- both of them are directly or indirectly controlled by a third person
- together they directly or indirectly control a third person

Article 4: If the customs value of the imported goods cannot be determined under the provisions of Article (1), the customs value shall be determined in order as follows:

- 1- transaction value of identical goods
- 2- transaction value similar goods
- 3- deduction value
- 4- computed value

The importer has the choice of preceding the method no. (3) or (4) after he/she has the acceptance from the office.

Article 5: Transaction value of identical goods: it is the transaction value of identical goods sold to be imported to Yemen taking into account the following:

- a) goods are exported at the same time

- b) goods are of the same commercial level and/or in close quantities
- c) If such above values are not met, the transaction value of identical goods is used. The transaction value of identical goods shall be sold at different commercial level and/or different quantities taking into account the adjustments of the commercial level and/or quantities provided that such adjustments are based on objectivity and evidences.

If there is more than one transaction value for the identical goods, the lowest value shall be determined.

Article (6) Transaction value of similar goods, same provisions of Article 5 are applied at transaction value of similar goods.

Article (7) Deduction value: customs value shall be based on the unit price at which the imported goods or identical or similar imported goods in the domestic market are sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, within 90 days as of the importation of the goods being valued, to persons who are not related provided that the deduction of the subsequent costs aftermath the goods arrival to the port of importation such as commissions, domestic transport, duties and taxes, profits etc

If neither the imported good nor identical nor similar imported goods are sold at the case of their entrance into the domestic market (i.e. after their preparations or addition), the customs value shall be based on the unit price in the greatest quantity, to persons who are not related with conducting appropriate deduction for added value for such preparations beside to the deduction stated in Para (a) of this article.

Article 8: computed value: the customs value of imported goods under the provisions of this Para relies on the computed value which composes the following:

- a- the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- b- the amount of profit and public expenses in equivalent to the amount in connection usually with sales of the imported goods of the same class or kind, which are valued and manufactured by producers in the exportation country for export them to Yemen.

- c- Wages, costs and expenses such as loading, insurance, unloading and handling until they are entered into the territories.

Article 9:

- a) If the customs value of imported goods cannot be determined according to the provisions of articles (1, 5, 6, 7 and 8) the value shall be determined using appropriate methods in conformity with the general principals and provisions of the article 7 of GATT 1994 and its implementation agreement, and based on the available data in the country of importation.
- b) The customs value shall not be determined under the provisions of this article on the basis of:
 - Sale price in Yemen for goods produced locally
 - maximum value among substitutes values
 - the price of goods on the domestic market of the country of exportation
 - Cost of other production other than the computed value which is determined for identical or similar goods referred in the article 8
 - the price of the goods for export to a country other than the country of importation
 - the minimum customs values
 - Arbitrary or fictitious values.

Article 10:

- 1- If the importer so requests, the importer shall be informed in writing of the method used to determine the value of his goods.
- 2- The importer or any other person incurred payment of customs duties and other taxes may dismiss or appeal against the determination of the customs value without any penalty.
- 3- All confidential information or information supplied on the secret basis for the purposes of evaluation shall be treated as confidential and they shall not be disclosed except to the extent that it may be required to be disclosed in the context of judicial proceedings.
- 4- When the value is in foreign currency, it shall be converted into the local currency on the basis of the rate of exchange, which is determined by the central bank.