

# WTO VALUATION

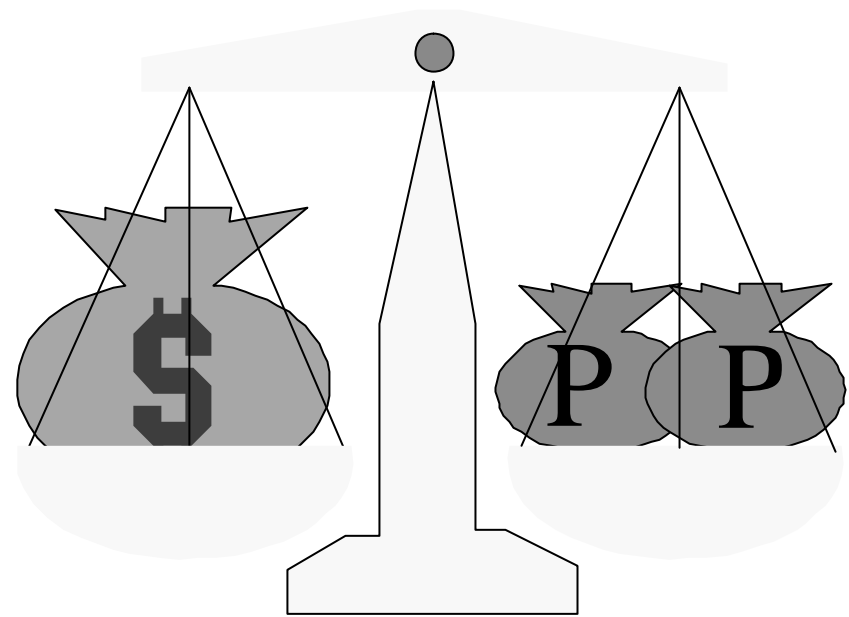
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# AN OVERVIEW OF CUSTOMS VALUATION



# Customs Valuation is Important in

- Assessment of Customs Duties
- Trade Statistics
- Quota and Licensing Arrangements
- Determining Taxes and Other Charges on Imports
- Application of Preference Systems

# The Tokyo Round

- Recognized that certain valuation practices can have restrictive effects on international trade
- Among the major goals
  - Reduce or eliminate non-tariff measures
  - Where this is not appropriate, to reduce or eliminate their trade restricting effects
  - Bring such measures under more effective international discipline

# The Agreement on Implementation of Article VII of GATT

- Seeks to provide a fair, uniform and neutral valuation system
- Conforms to commercial realities
- Outlaws the use of arbitrary or fictitious values
- Entered into force on January 1, 1981
- Adoption by GATT member countries not mandatory at the time

# The Agreement Establishing the World Trade Organization

- Seeks to develop an integrated, more viable and durable multilateral trading system encompassing the GATT, the results of past trade liberalization efforts and the results of the Uruguay Round
- Entered into force January 1, 1995
- Made certain agreements and associated legal instruments (called Multilateral Trade Agreements) binding

**THE WORLD TRADE  
ORGANIZATION (WTO)  
AGREEMENT ON THE  
IMPLEMENTATION  
OF ARTICLE VII OF GATT  
(1994)**

**formerly**

**the GATT Valuation Code**

# WTO Committee on Customs Valuation

- ❑ **Operates under the auspices of the WTO**
- ❑ **Based in Geneva**
- ❑ **Deals with trade policy aspects of customs valuation**



# **World Customs Organization**

## **WCO**

- 139 Members**
- Committees covering all aspects of Customs work**
- Valuation Committee**
  - Technical Committee on Customs Valuation**

# **WCO Technical Committee On Customs Valuation**

- ❑ Objective is to achieve uniformity in interpretation and application of the Agreement**
- ❑ Based in Brussels, Belgium**
- ❑ Discusses problems raised by Members**
- ❑ Issues opinions, commentaries, explanatory notes & case studies**
- ❑ Works closely with the WTO Committee on Customs Valuation**

# THE 6 VALUATION METHODS

- 1. Transaction Value**
- 2. Transaction Value of Identical Goods**
- 3. Transaction Value of Similar Goods**
- 4. Deductive Method**
- 5. Computed Method**
- 6. Fallback Method**

# **TRANSACTION VALUE**

## **(Method 1)**

**The price actually paid or payable for the imported goods when sold for export to the country of importation adjusted in accordance with the provisions of**

**ARTICLE 8**

# Important Concepts

- **When is there a sale?**
- **When is there a sale for export?**

# OWNERSHIP TRANSFER

## WHEN THE POTENTIAL BUYER:

- Has assumed the risk of loss**
- Is liable for goods when lost or damaged during shipment**
- Acquired title to, legally possesses, or owns the imported goods**

# **IMPORTED GOODS - NO SALE**

- ❑ GIFTS, SAMPLES AND PROMOTIONAL ITEMS FREE OF CHARGE**
- ❑ GOODS IMPORTED ON CONSIGNMENT**
- ❑ GOODS IMPORTED BY BRANCH OFFICES WHICH ARE NOT CONSIDERED LEGAL ENTITIES**
- ❑ GOODS IMPORTED UNDER HIRE, LEASE OR LOAN**

# ADJUSTMENTS

- ❑ **SELLING COMMISSIONS**
- ❑ **PACKING**
- ❑ **ASSISTS**
- ❑ **ROYALTIES AND LICENSE FEES**
- ❑ **PROCEEDS OF RESALE**
- ❑ **TRANSPORT COSTS**



**ADD TO THE PRICE**

**I F**

**INCURRED  
BY THE  
BUYER**

**NOT  
ALREADY  
INCURRED**

**OBJECTIVE  
DATA**

# USE OF TRANSACTION VALUE

- ❑ **NO RESTRICTIONS IN DISPOSITION OR USE**
- ❑ **NO CONDITIONS OR CONSIDERATIONS**
- ❑ **NO PROCEEDS EXCEPT UNDER ARTICLE 8**
- ❑ **NOT RELATED EXCEPT UNDER PARAGRAPH 2**

# PERMITTED ~~RESTRICTIONS~~

## REQUIRED BY LAW

— LICENSES

— PERMITS

— LABELS

— TESTING

## LIMIT AREA SOLD

— TERRITORIES

## DO NOT AFFECT VALUE

— NATURE  
OF RESTRICTION

— NATURE  
OF GOODS

— NATURE  
OF INDUSTRY

— NO SIGNIFICANT  
EFFECT

# SITUATIONS WHICH MAY PRECLUDE USING TRANSACTION VALUE

- ❑ **Restrictions on resale, disposal or use of the imported goods**
- ❑ **Conditions or considerations for which a value cannot be determined**
- ❑ **Proceeds without any adjustments**
- ❑ **Related Party transactions**

# Definition of Related Parties: (Article 15)

Officers or Directors

Partners in business

Employer and employee

5% stock

One controls the other

Both control a third person

Together they control a  
third person

Same family members

# RELATED PARTIES

**If the importer maintains that the relationship has not affected the declared price, a test can be applied.**

# RELATED PARTIES

**INFLUENCE ON PRICE ?**

```
graph TD; A[INFLUENCE ON PRICE ?] --- B[ ]; B --- C[CIRCUMSTANCES OF SALE]; B --- D[TEST VALUES];
```

**CIRCUMSTANCES  
OF SALE**

**TEST VALUES**

# CIRCUMSTANCES OF SALE

## **Paragraph 2(a)**

The circumstances surrounding the sale are to be examined and the transaction value is to be accepted provided the relationship did not influence the price

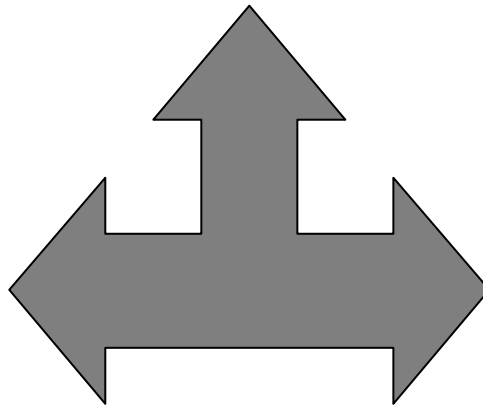


# TEST VALUES

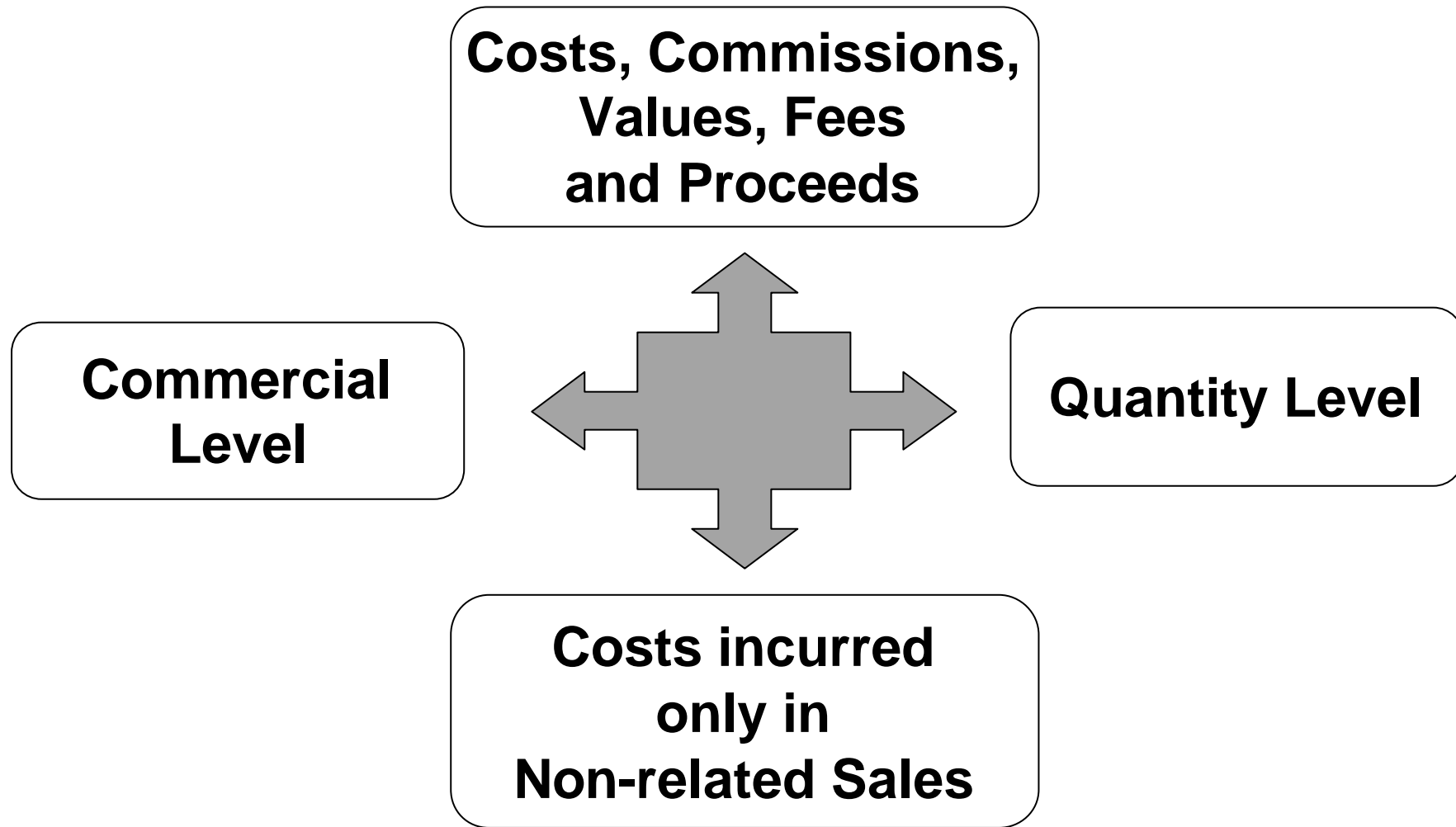
**TRANSACTION VALUE  
IDENTICAL / SIMILAR**

**DEDUCTIVE VALUE  
IDENTICAL / SIMILAR**

**COMPUTED VALUE  
IDENTICAL / SIMILAR**



# ADJUSTMENTS TO TEST VALUES



Example:

**You have a shipment of electronic calculators which was produced in Japan by manufacturer Canon.**

**The goods were destined for Electroworld in the Kazakhstan. Canon owns 10% of the voting stock of Electroworld.**

**The calculators are invoiced at 310 c.u. per dozen. Electroworld is not able to establish that the price was not influenced by the relationship.**

**The price of the same calculators sold by Canon to other importers in the Kazakhstan who are not related is 366 c.u. per dozen.**

**Example:** (continued)

**This price includes a full warranty handled by Canon estimated to be worth approximately 20% of the invoice price. Electroworld handles its own warranty.**

**You have record of another producer of electronic calculators in Japan who sells similar calculators in Kazakhstan to unrelated buyers at 398 c.u. per dozen.**

**You have recently established transaction values for Canon's sales to unrelated buyers at 366 c.u. per dozen and for the producer of similar goods in Japan at 398 c.u. per dozen.**

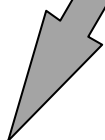
**What is the transaction value?**

**Japan**



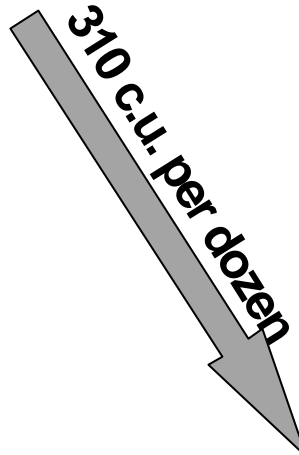
**Owens 10% voting  
stock of Electroworld**

**366 c.u. per dozen**



**C Brain Trdg.  
Kazakhstan**

**310 c.u. per dozen**



**Electroworld  
Kazakhstan**

**Established T.V. for the producer of similar goods in Japan at 398 c.u. per dozen**

**Customs value = 310 c.u. per dozen**

**One can demonstrate that the transaction value closely approximates a test value of identical goods by making an adjustment for warranty considerations which are incurred by non-related buyers but not incurred by related buyers. A price of 366 c.u. adjusted for 20% warranty is 305 c.u. which closely approximates 310 c.u.**