

OMAN CUSTOMS VALUATION LAW

THIS CHAPTER ESTABLISHES THE LEGAL BASIS GOVERNING THE VALUATION FOR CUSTOMS PURPOSES OF GOODS IMPORTED IN TO THE SULTANATE OF OMAN.

ARTICLE 1

1. In this Act:

- (a) 'customs value' means value of goods for the purposes of levying advalorem duties of customs on imported goods;
- (b) 'produced' includes grown, manufactured and mined;
- (c) 'identical goods' means goods produced in the same country which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical.
- (d) 'similar goods' means goods produced in the same Country which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable; the quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar.
- (e) 'identical goods' and 'similar goods', do not include as the case may be, goods which incorporate or reflect engineering, development, art work, design work and plans and sketches for which no adjustment has been made under Article 8(1)(b)(iv) because such elements were undertaken in the Sultanate of Oman.

- (f) 'goods of the same class or kind' means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;
 - (g) 'the material time for valuation for customs purposes' means:
 - (i) for goods declared for direct entry in to free circulation, the date of acceptance by the Customs administration of the importer's statement of his intention that the goods should enter in to free circulation;
 - (ii) for goods which, after another customs procedure has been applied, enter in to free circulation, the time fixed in relation to that customs procedure.
 - (h) 'Customs territory of the Sultanate of Oman shall comprise:
 - The territory of the Sultanate of Oman
 - The territorial waters of the Sultanate of Oman
 - The air-space of the Sultanate of Oman.
2. For the purposes of this act, persons shall be deemed to be related only if:
- a. they are officers or directors of each others businesses;
 - b. they are legally recognized partners in business;
 - c. they are employer and employee;
 - d. any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them;

- e. one of them directly or indirectly controls the other;

 - f. both of them are directly or indirectly controlled by a third person;

 - g. together they directly or indirectly control a third person; or

 - h. they are members of the same family.
-
- 3. For the purpose of this act, persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria of paragraph 2.

 - 4. For the purposes of this act, the term 'persons' means natural or legal persons.

ARTICLE 2

- 1. The customs value of imported goods is to be determined

determined under Article 3, 4, 5, 6 and 7, it shall be determined on the basis of data available in the Sultanate of Oman using reasonable means consistent with the principles and general provisions of this regulation.

4. No customs value shall be determined under paragraph 3 on the basis of:
 - a. the selling price in Oman of goods produced in Oman.
 - b. a system, which provides for the acceptance for customs purposes of the higher of two alternative values;
 - c. the price of goods on the domestic market of the Country of exportation;
 - d. the cost of production, other than computed values which have been determined for identical or similar goods in accordance with Article 7;
 - e. prices for export to a Country other than the Sultanate of Oman;
 - f. minimum customs values; or

- g. arbitrary or fictitious values.

ARTICLE 3

1. The customs value of imported goods determined under this Article shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to Oman, adjusted in accordance with Article 8, provided:

- a. that there are no restrictions as to the disposition or use of the goods by the buyer, other than restrictions which:

- i. are imposed or required by law or by the public authorities in Oman;

- ii. limit the geographical area in which the goods may be resold, or

- iii. do not substantially affect the value of the goods;

- b. that the sale or price is not subject to some condition or

consideration for which a value can not be determined with respect to the goods being valued;

- c. that 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, unless an appropriate adjustment can be made in accordance with Article 8; and
 - d. that the buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes under paragraph 2 of this Article.
2. a. In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related within the meaning of Article 1.2 shall not in itself be grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise, the Customs administration has grounds for considering that the relationship influenced price, it shall communicate such grounds to the importer and he shall be given a reasonable opportunity to respond. If the importer so requests, the communication of the grounds shall be in writing.
- b. In the sale between related persons, the transaction value shall be accepted and the goods valued in

ii.
the customs value of identical or similar goods, as determined under Article 6;

iii.
the customs value of identical or similar goods, as determined under Article 7;

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 8 and costs incurred by the seller in sales in which he and the buyer are related.

c. The tests set forth in paragraph 2(b) are to be used at

the buyer on his own account, other than those for which an adjustment is provided in Article 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

4. The customs value of imported goods shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods:
 - a. charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment.
 - b. customs duties and other taxes payable in Oman by reason of the importation or sale of the goods.

ARTICLE 4

1.
 - a. The customs value of imported goods determined under this Article shall be the transaction value of identical goods sold for export to Oman and exported at or about the same time as the goods being valued.
 - b. In applying this Article, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments

can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in Article 8(1)(e) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.
3. If, in applying this Article, more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods.
4. In applying this Article, a transaction value for goods produced by a different person shall be taken in to account only when no transaction value can be found under paragraph 1 for identical goods produced by the same person as the goods being valued.
5. For the purposes of this Article, the transaction value of identical imported goods means a customs value previously determined under Article 3, adjusted as provided for in

- included in the transaction value, the adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.
3. If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.
 4. In applying this Article, a transaction value for goods produced by a different person shall be taken in to account only when no transaction value can be found under paragraph 1 for similar goods produced by the same person as the goods being valued.
 5. For the purposes of this Article, the transaction value of similar imported goods means a customs value previously determined under article 3, adjusted as provided for in paragraphs 1(b) and 2 of this Article.

ARTICLE 6

marketing the goods in question) in connection with the sales in Oman of imported goods of the same class or kind;

ii.
the usual costs of transport and insurance and associated costs incurred within Oman; and

iii.
the customs duties and other taxes payable in Oman by reason of the importation or sale of the goods.

- b. If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value of imported goods determined under this Article shall, subject otherwise to the provisions of paragraph 1(a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in Oman in the condition as imported at the earliest date after the importation of goods being valued.
2. If neither the imported goods nor identical nor similar imported goods are sold in Oman in the condition as imported, then, if the buyer so request, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Oman who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the

- deductions provided for in paragraph 1(a).
3. In this Article, the unit price at which imported goods are sold in the greatest aggregate quantity is the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.
 4. Any sale in Oman to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in Article (1)(b), should not be taken in to account in establishing the unit price for the purposes of this Article.
 5. For the purposes of paragraph 1(b), the earliest date shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

ARTICLE 7

1. The customs value of imported goods determined under this Article shall be based on a computed value. Computed value shall consist of the sum of:
 - a. the cost or value of materials and fabrication or other processing employed in producing the imported goods;
 - b. an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the Country of exportation for export to Oman.
 - c. The cost or value of the items referred to in Article 8(1)(e).
2. The Customs administration may not require or compel any person not resident in Oman to produce for examination, or to allow access to any account or other record for the purposes of determining a computed valued. However, information supplied by the producer of the goods for the purposes of

- determining the customs value under this Article may be verified in another country by the Customs administration with the agreement of the producer and provided that the administration gives sufficient advance notice to the government of the country in question and the latter does not object to the investigation.
3. The cost of value of materials and fabrication referred to in paragraph 1(a) above shall include the cost of elements specified in Article 8(1)(a)(ii) and (iii). It shall also include the value, duly appointed of any element specified in Article 8(1)(b) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in Article 8(1)(b)(iv) which are undertaken in Oman shall be included only to the extent that such elements are charged to the producer.
 4. Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the Customs administration shall inform the buyer, if the latter so requests, of the source of such information, the data used and the calculations based on such data, subject to Article 10.
 5. The 'general expenses' referred to in paragraph 1(b), above, cover the direct and indirect costs of producing and selling the goods for export which are not included under paragraph 1(a).

ARTICLE 8

1. In determining the customs value under Article 3, there shall be added to the price actually paid or payable for the imported goods:
 - a. the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
 - i.

commission and brokerage, except buying commissions;

ii.
the cost of packaging which is treated as being one for customs purposes with the goods in question;

iii.
the cost of packing, whether for labour or other associated costs.

b. the value, appointed as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

i.
materials, components, parts and similar items incorporated in the imported goods;

ii.
tools, dies, moulds and similar items used in the production of the imported goods;

iii.
materials consumed in the production of the imported goods;

iv. engineering, development, art work, design work, and plans and sketches undertaken elsewhere than in Oman and necessary for the production of the imported goods;

c. royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable:

d. 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;

e. i. the cost of transport and insurance of the imported goods; and

ii. loading and handling charges associated with the transport of the imported goods

to the place of introduction of the goods in to the customs territory of Oman.

2. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.

3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

4. In this Article, the term 'buying commissions' means fees paid by an importer to his agent for the service of representing him

- in the purchase of the goods being valued.
5. Notwithstanding paragraph 1(c) of this Article:
 - a. Charges for the right to reproduce the imported goods in Oman shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and
 - b. Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to Oman of the goods.

ARTICLE 9

1. Where the conversion of currency is necessary for the determination of the Customs value, the rate of exchange to be used at the material time shall be that duly published daily by the Oman Central Bank and shall reflect as effectively as possible, in respect of the period covered by each such document of publication, the current value of such currency in commercial transaction.

ARTICLE 10

1. With a view to determining Customs value any person or undertaking directly or indirectly concerned with the import transaction in question shall supply all necessary information and documents to the Customs administration within the time limits prescribed by the latter.
2. All information which is by nature confidential or which is provided on a confidential basis for the purposes of customs valuation shall be treated as strictly confidential by the Customs administration who shall not disclose it without the specific permission of the person or government providing

such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.

ARTICLE 11

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of customs value, the importer shall nevertheless be able to withdraw his goods from the Customs if, where so required, he provides sufficient guarantee in the form of a surety, a deposit or some other appropriate instrument, covering the ultimate payment of customs duties for which the goods may be liable.

ARTICLE 12

Laws, regulations, judicial decisions and administrative rulings of general application giving effect to this law shall be published promptly in the Official Gazette.

ARTICLE 13

If the importer believes that he has been unjustly treated in the decision made by the customs duty assessment, he has the right to raise his case to the permanent committee formed by decision of the Inspector General provided that the claimant is represented in the same committee.

The executive regulations will determine the work procedures of the said committee.

The decision of the committee can be appealed against, without penalty, to the Commercial Court, within sixty days from the date of the committee's decision.

ARTICLE 14

1. The customs value of imported goods shall not include the cost of transport after importation into the customs territory of Oman provided that such cost is distinguished from the price actually paid or payable for the imported goods.

2. a.
Where goods are carried by the same means of transport to a point beyond the place of introduction in to the customs territory of Oman transport costs shall be assessed in proportion to the distance covered outside and inside the customs territory of Oman.

The preceding sub-paragraph shall not apply to goods sent by post. Special provisions may be adopted for such goods in view of the special nature of charges in international postal services.

- b.
Where transport is free or provided by the buyer, transport costs to the place of introduction, calculated in accordance with the schedule of freight rates normally applied for the same modes of transport, shall be included in the customs value.

ARTILCE 15

THE INCIDENCE OF ROYALTIES AND LICENCE FEES IN CUSTOMS VALUE

ARTICLE 17

1. For the purpose ofto Oman Customs Act (16 of 1978), royalties and licence fees shall take to mean in particular payment for the use of rights relating:
 - .to the manufacture of imported goods (in particular, patents, designs, models and manufacturing know how), or
 - .to the sale for exportation of imported goods (in particular, trade marks, registered designs), or
 - .to the use or resale of imported goods (in particular copyright, manufacturing processes inseparably embodied in the imported goods).
2. Without prejudice to Article to Oman Customs Act, when the Customs value of imported goods are determined under the provisions of Article.....of that Act, a royalty or licence fee is to be added to the price actually paid or payable only when this payment: is related to the goods being valued; and constitutes a condition of sale of those goods.

ARTICLE 18

1. When the imported goods are only in ingredient or component of goods manufactured in Oman an adjustment to the price actually paid or payable for the imported goods shall only be made when the royalty or licence fee relates to those goods.
2. Where goods are imported in an unassembled state or only have to undergo minor processing before resale, such as diluting or packing, this shall not prevent a royalty or licence fee from being considered related to the imported goods.
3. If royalties or licence fees relate partly to the imported goods

and partly to other ingredients or component parts added to the goods after their importation, or to the post importation activities or services, an appropriate apportionment shall be made only on the basis of objective and quantifiable data.

ARTICLE 19

1. A royalty or licence fee in respect of the right to use a trade mark is only to be added to the price actually paid or payable for the imported goods where:

. the royalty or licence fee refers to goods which are resold in the same state or which are the subject only to minor process after importation.

. the goods are marketed under the trade mark, affixed before or after importation, for which the royalty or licence fee is paid, and

. the buyer is not free to obtain such goods from other suppliers unrelated to the seller.

ARTICLE 20

1. When the buyer pays royalties or licence fees to a third party, the conditions provided for in Article.....shall not be considered as met unless the seller or a person related to him requires to make that payment.

PROVISIONS IMPLEMENTING THE CUSTOMS MANAGEMENT DECREE.

TITLE: CUSTOMS VALUE

SECTION 1

1. In applying the provisions of Annex..... of the Sultanate of

- appearing in the second column.
2. If it is necessary to make reference to generally accepted accounting principles in determining the customs value, the provisions of Annex..(B)..shall apply.

SECTION 2

For the purposes of this title: “the Agreement” means the Agreement on implementation of Article VII of the General Agreement on tariffs and trade concluded in the frame work of the multilateral trade negotiations finalized in 1994.

SECTION 3

For the purpose of determining customs value under Article 3 of the In regard to which the price has not actually been paid at the material time for valuation for customs purposes, the price payable for settlement at the said time shall as a general rule be taken as the basis for customs value.

SECTION 4

Where goods declared for free circulation are part of a larger quantity of the same goods purchased in one transaction, the price actually paid or payable for the purposes of Article 3(1) of the Shall be that price represented by the proportion of the total price which the quantity so declared bears to the total quantity purchased.

Appointing the price actually paid or payable shall also apply in the case of the loss of part of a consignment or when the goods being valued have been damaged before entry in to free circulation.

SECTION 5

Where the price actually paid or payable for the purposes of Article 3(1) of the Includes an amount in respect of any internal tax applicable within the country of origin or export in respect of the goods in question, the said amount shall not be incorporated in the customs value provided that it can be demonstrated to the satisfaction of the customs authorities concerned that the goods in question have been or will be

relieved there from for the benefit of the buyer.

SECTION 6

1. For the purposes of Article 3 of the, the fact that the goods which are the subject of a sale area declared for entry in to the Sultanate6957.T6lte6957.T (free circulation) shall of/Tgardntras-1.150T:

SECTION 8

1. For the purpose of Article 3 (3) (b) of the Act, the term 'marketing activities' means all activities relating to advertising and promoting the sale of the goods in question and all activities relating to warranties or guarantees in respect of them.
2. Such activities undertaken by the buyer shall be regarded as having been undertaken on his own account even if they are performed in pursuance of an obligation on the buyer following an agreement with the seller.

SECTION 9

1. In applying Article 4 (1) of the (the transaction value of identical goods), the customs value shall be determined by reference to the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued.
2. For the purposes of this Article, the transaction value of identical imported goods means a customs value previously determined under Article 3 of the Customs adjusted as provided for in Article 8 paragraphs 2 and 3.

SECTION 10

1. In applying Article 5 (1) of the (the transaction value of similar goods), the customs value shall be determined by reference to the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued.
2. For the purposes of this Article, the transaction value of similar imported goods means a customs value previously determined under Article 3 of the Customs, adjusted as provided for in Article 8 paragraphs 2 and 3.

SECTION 11

1. For the purposes of this article 6 (1) (2) (3) of the the unit price at which imported goods are sold in the greatest aggregate quantity is the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.
2. Any sale in the country to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in Article 8 (1) (b) of the should not be taken in to account in establishing the unit price for the purposes of this Article.

For the purposes of paragraph 1 (b), 'not later' shall relate not only to 90 days following the importation of goods but also to the earliest date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

SECTION 12

1. The cost or value of materials and fabrication referred to in the first indent of Article 7 (1) (a) of the Act shall include the cost of elements supplied directly or indirectly specified in

ARTICLE 13

Where containers referred to in Article 8 (1) (a) (ii) of theare to be the subject of repeated importations, their cost shall, at the request of the declarant, be apportioned, as appropriate, in accordance with generally accepted accounting principles.

ARTICLE 14

For the purpose of Article 8 (1) (b) (iv) of the Act, the cost of research and preliminary design sketches is not to be included in the customs value.

CHAPTER 2: PROVISIONS CONCERNING ROYALTIES AND LICENCE FEES

SECTION 15

1. For the purposes of Article 8 (1) © of the, royalties and licence fees shall be taken to mean in particular payment for the use of rights relating:

-

To the manufacture of imported goods (in particular, patents, designs, models and manufacturing know-how), or

-

To the sale for exportation of imported goods (in particular, trade marks, registered designs), or

-

To the use or resale of imported goods (in particular, copyright, manufacturing processes ineparably embodied in the imported goods).

2. Without prejudice to Article

for the imported goods where:

-
the royalty or licence fee refers to goods which are resold in the same state or which are subject only to minor processing after importation,

-
the goods are marketed under the trade mark, affixed before or after importation, for which the royalty or licence fee is paid, and

-
the buyer is not free to obtain such goods from other suppliers unrelated to the seller.

SECTION 18

When the buyer pays royalties or licence fees to a third party, the conditions provided for in Section 16 (2) shall not be considered as met unless the seller or a person related to him requires the buyer to make that payment.

SECTION 19

Where the method of calculation of the amount of a royalty or licence fee derives from the price of the imported goods, it may be assumed in the absence of evidence to the contrary that the payment of that royalty or licence fee is related to the goods to be valued.

However, where the amount of a royalty or licence fee is calculated regardless of the price of the imported goods, the payment of that royalty or licence fee may nevertheless be related to the goods to be valued.

where goods are invoiced at a uniform free domicile price that corresponds to the price at the place of introduction, transport costs within the territory shall not be deducted from that price. However, such deduction shall be allowed if evidence is produced to the customs authorities that the free-frontier price would be lower than the uniform free domicile price.

(c)

where transport is free or provided by the buyer, transport costs to the place of introduction, calculated in accordance with the schedule of freight rates normally applied for the same modes of transport, shall be included in the customs value.

SECTION 22

1. All postal charges levied up to the place of destination in respect of goods sent by post shall be included in the customs value of these goods, with the exception of any supplementary postal charge levied in this Country.
2. No adjustment to the declared value shall, however, be made in respect of such charges in determining the value of consignments of a non-commercial nature.
3. Paragraphs 1 and 2 are not applicable to goods carried by the express postal services provided by Companies such as DHL, UPS, and Federal Express, for example.

CHAPTER 6: PROVISIONS CONCERNING RATES OF EXCHANGE

SECTION 23

For the purposes of Section 23 to 25 of this chapter:

- (a) 'rate recorded' shall mean, the latest selling rate of exchange recorded for commercial transactions on the foreign

- exchange market of the Central Bank of the Sultanate of Oman.
- (b) 'published' shall mean made generally known in a manner designated by the Customs authority.
 - (c) 'currency' shall mean any monetary unit used as a means of settlement between monetary authorities or on the international market.

SECTION 24

Where a rate of exchange can not be established under the provisions of Article 9, the rate of exchange to be used shall be designated by the customs administration and shall reflect as effectively as possible the current value of the currency in question in commercial transactions in terms of Omani Rials.

SECTION 25

1. Where a rate of exchange recorded on the last Wednesday of a month and published on that or the following day differs by 5% or more from the rate established in accordance with Article 9 for entry in to use the following month, it shall replace the latter rate from the first Wednesday of that month as the rate to be applied for the application of Article 9 of Annex....o the Customs Management Decree.
2. Where in the course of a period of application as referred to in the preceding provisions, a rate of exchange recorded on a Wednesday and published on that or the following day differs by 5% or more from the rate being used in accordance with this Chapter, it shall replace the latter rate and enter in to use on the Wednesday following as the rate to be used for the application of Section 78 of the Act.
The replacement rate shall remain in use for the remainder of the current month, provided that this rate is not superseded due to operation of the provisions of the first sentence of this paragraph.
3. Where, a rate of exchange is not recorded on a Wednesday or, if recorded, is not published on that or the following day, the rate recorded shall, for the application of paragraphs 1 and 2, be the rate most recently recorded and published prior to that Wednesday.

SECTION 26

When the customs authorities authorize a declarant to furnish or supply at a later date certain details concerning the declaration for free circulation of the goods in the form of a periodic declaration, this authorization may, at the declarant's request, provide that a single rate be used for elements forming part of the customs value as expressed in a particular currency. In this case, the rate to be used shall be the rate, established in accordance with this Chapter, which is applicable on the first day of the period covered by the declaration in question.

SECTION 27

1. Except where it is essential for the correct application of import duties, the customs authorities shall waive the requirement of all or part of the declaration provided for in Section 29 (1):

- a.
where the customs value of the imported goods in a consignment does not exceedOmani Rials provided that they do not constitute split or multiple consignments from the same consignor to the same consignee; or

- b.
where the importations involved are of a non-commercial nature; or

- c.
Where the submission of the particulars in question is not necessary for the application of the Customs Tariff of the Sultanate of Oman or where the customs duties provided for in the Tariff are not chargeable pursuant to specific customs provisions.

2. A waiver granted under this Article may be withdrawn and the

SECTION 31

Charges for interest under a financing arrangement entered in to by the buyer and relating to the purchase of imported goods shall not be regarded as part of the customs value provided that:

a.
the charges are distinguished from the price actually paid or payable for the goods;

b.
the financing arrangement was made in writing;

c.
Where required, the buyer can demonstrate that

-
such goods are actually sold at the price declared as the price actually paid or payable, and

-
The claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when finance was provided.

This shall apply regardless of whether the finance is provided by the seller, a bank or another natural or legal person. It shall also apply, if appropriate, where goods are valued under a method other than the transaction value.

SECTION 32

In determining the customs value of imported carrier media bearing data or instructions, only the cost or value of the carrier medium itself shall be taken in to account. The customs value shall not, therefore, include the cost or value of the data or instructions, provided that this is distinguished from the cost or the value of the carrier medium.

For this purpose, the expression “carrier medium” shall not be taken to include integrated circuits, semiconductors and similar devices or articles incorporating such circuits or devices; the expression “data or instructions” shall not be taken to include sound cinematic or video recordings.

ANNEX A

INTERPRETATIVE NOTES ON CUSTOMS VALUE

Reference to
provisions of
the Customs
Act

Notes

3(2)(a)(b)

- (a) the seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities;
- (b) the price of the import goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods;
- (c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that he will receive a specified quantity of the finished goods.

However, conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value.

For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in the Country of importation shall not result in rejection of the transaction value for the purposes of Article 3(2).

Article 3(3)

1. Paragraphs 3 and 4 provide different means of establishing the acceptability of a transaction value.

Paragraph 3 provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the customs value provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller related.

Such examination will only be required where

they are doubts about the acceptability of the price.

Where the customs authorities have no doubts about the acceptability of the price, it should be accepted without requesting further information from the declarant. For example, the customs authorities may have previously examined the relationship, or it may already have detailed information concerning the buyer and seller, and may already be satisfied from such examination or information that the relationship did not influence the price.

Article 3(3)
contd.

2. Where the customs authorities are unable to accept the transaction value without further inquiry, they should give the declarant an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale, in this context, the customs authorities should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and the seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price.

Where it can be shown that the buyer and seller, although related under the provisions of Article 2(3) of the Act, buy from and sell to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sale to buyers who are not related to him, this would demonstrate that the price had not been influenced by the relationship.

goods of the same class or kind, this would demonstrate that the price had not been influenced.

4. Paragraph 4 provides an opportunity for the declarant to demonstrate that the transaction value closely approximates to a 'test' value previously accepted by the customs authorities and is therefore acceptable under the provisions of Article 3. Where a test under paragraph 4 is met, it is not necessary to examine the question of influence under paragraphs 3 and 4. (a) If the customs authorities already have sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in paragraph 4 has been met, there is no reason for them to require the declarant to demonstrate that the test can be met.

Article 3(4)

A number of factors must be taken in to consideration in determining whether one value 'closely approximate' to another value.

These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and, whether the difference in values is commercially significant. Since these factors may vary from case to case, it

Article 5 & 6

In applying these provisions, the customs authorities shall, where possible, use a sale of identical or similar goods, as appropriate, at the same commercial level and in substantially the same quantity as the goods being valued.

Where no such sale is found, a sale of identical or similar goods, as appropriate, that takes place under any one of the following three conditions may be used:

- (a) a sale at the same commercial level but in a different quantity,
- (b) a sale at a different commercial level but in substantially the same quantity., or
- (c) a sale at a different commercial level and in a different quantity.

2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:

(i) quantity factors only;

(ii) commercial level factors only; or

(iii) both commercial level and quantity factors.

3. The expression 'and/or' allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.

4. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities.

As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical or similar imported goods, as

appropriate, for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units.

This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Articles 5 and 6 is not appropriate.

5. Local taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of paragraph 1(a)(iv) of article 5 shall be deducted under the provisions of paragraph 1(a)(i) of Article 5.

Article 7

As a general rule, customs value is determined under these provisions on the basis of information readily available in the territory. In order to determine a computed value, however, it may be necessary to examine the cost of producing the goods being valued and other information which has to be obtained from outside the territory.

Furthermore, in most cases the producer of the goods will be outside the jurisdiction of the authorities of the territory.

The use of the computed value method will generally be limited to those cases where the buyer and seller are related and the producer is prepared to supply to the authorities of the country of importation the necessary costings and to provide facilities for any subsequent verification which may be necessary.

2. The 'cost or value' referred to in Article 7 1(1)(a) first indent, is to be determined on the basis of information relating to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the

generally accepted accounting principles applied in the country where the goods are produced.

3. The 'amount for profit and general expenses' referred to in Article 7 (1)(b) second indent, is to be determined on the basis of information supplied by or on behalf of the producer unless his figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation.

4. No cost or value of the elements referred to in this Article shall be counted twice in determining the computed value.

It should be noted in this context that the 'amount for profit and general expenses' has to be taken as a whole, it follows that if, in any particular case, the producer's profit figure is low and his general expenses are high, his profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind.

Such a situation might occur, for example, if a product were being launched in the territory and the producer accepted a nil or low profit to offset high general expenses associated with the launch.

Where the producer can demonstrate that he is taking allow profit on his sales of the imported goods because of particular commercial circumstances, his actual profit figures should be taken in to account provided that he has valid commercial reasons to justify them and his pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell

goods to complement a range of goods being produced in the country of importation and accept a low profit to maintain competitiveness.

Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.

6. Whether certain goods are 'of the same class or kind' as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profit and general expenses under the provisions of Article 7 sales for export to the country of importation of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined, For the purposes of Article 7 'goods of the same class or kind' must be from the same country as the goods being valued.

(Article 7 of the Agreement.)

1. Customs values determined under the provisions of Article 1,7) should, to the greatest extent possible, be based on previously determined customs values.

identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of Articles 5 and 6 could be used;

(iii) similar goods – the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Sections 70 and 71 could be used;

(iv) deductive method – the requirement that the goods shall have been sold in the ‘condition as imported’ in Article 7 of this Regulation could be flexibly interpreted; the ‘90 days’ requirement could be administered flexibly.

Article
8(1)(b)(2)

1. There are two factors involved in the apportionment of the elements specified in Article 8(1)(b) to the imported goods – the value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements should be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.

2. Concerning the value of the element, if the buyer acquires the element from a seller not related to him at a given cost, the value of the element is that cost. If the element was produced

by the buyer or by a person related to him, its value would be the cost of producing it. If the element had been previously used by the buyer, regardless of whether it had been acquired or produced by him, the original cost of acquisition or production would have to be adjusted downwards to reflect its use in order to arrive at the value of the element.

4. As an illustration of the above, the buyer provides the producer with a mould to be used in the production of the imported goods and contracts with him to buy 10,000 units. By the time of arrival of the first shipment of 1,000 units, the producer has already produced 4,000 units. The buyer may request the customs authorities to apportion the value of the mould over 1,000, 4,000 or 10,000 units.

Article 8(b)(4) 1. Additions for the elements specified in Article 8(b)(4) should be based on objective and quantifiable data. In order to minimize the burden for both the declarant and customs authorities in determining the values to be added, data readily available in the buyer's commercial record system should be used in so far as possible.

2. For those elements supplied by the buyer that are purchased or leased by the buyer, the addition would be the cost for the purchase or the lease. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them.

3. The case with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods.

4. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design center outside the country of importation in such a

way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of Article 8.

5. In another case, a firm may carry the cost of the design center outside the country of importation as a general overhead expense without allocation to specific products.

In this instance, an appropriate adjustment could be made under the provisions of Article 8 with respect to the imported goods by apportioning total design center costs over total production benefiting from the design centre and adding such apportioned cost on a unit basis to imports.

6. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation

7. In cases where the production of the element in question involves a number of countries and over a period of time circumstances will, of

nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty can not be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

Article 1(2)(f&g) One person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

Imp Section 11(2) Article 7(1)(a) 1. The words 'profit and general expenses' should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by the declarant unless his figures are inconsistent with those obtaining in sales in the country of importation of imported goods of the same class or kind. Where the declarant's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by the declarant.

2. In determining either the commissions or the usual profits and general expenses under this provision, the question whether certain goods are of the same class or kind as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in the country of importation of the narrowest group or range of imported goods of the same class or kind which includes the goods being valued, for which the necessary information can be provided, should be examined.

For the purposes of this provision, 'goods of the same class or kind' includes goods imported from the same country as the goods being valued as

well as goods imported from other countries.

Imp Section
11(2)
Article 7(2)

1. Where this method of valuation is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.

2. This method of valuation would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty.

On the other hand, there can also be instances where the imported goods their identity but form such a minor element in the goods sold in the country of importation that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

Imp Section
11(1)

1. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sales quantity	Unit price	Number of sales	Total quantity sold at each price
1 to units	100	10 sales of 5 units Five sales of 3 units	65
11 to 25 units	95	Five sales of 11 units	55
Over 25 units	90	One sale of 30 units One sale of 50 units	80

The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is 90.

2. As another example of this, two sales occur.

In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.

A third example would be the following situation where various quantities are sold at various prices.

(a) Sales

Sale quantity

Unit Price

40 units

accepted accounting principles in the country which is appropriate for the Article in question. For example, the determination of usual profits and general expenses under the provisions of Article 7(1)(a) of the Act would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the Sultanate of Oman. On the other hand, the determination of usual profit and general expenses under the provisions of Article 7 of the Act would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of production. As a further example, the determination of an element provided for in Article 8(1)(b)(ii) of the Act undertaken in the Sultanate of Oman would be carried out utilizing information in a manner consistent with the generally accepted accounting principles of the country.