

APPROVED by
Order No. 51 of
01 March 2000 of
Director of
the Customs Department
under the Ministry of Finance
of the Republic of Lithuania

THE METHODOLOGY OF CONTROL OF CUSTOMS VALUATION OF IMPORTED GOODS

I. GENERAL PROVISIONS

1. The purpose of the methodology of control of customs valuation of imported goods is to assist in establishing whether the customs value of goods declared by an importer corresponds to the requirements of legal acts and regulations on the procedure of customs valuation of goods, to perform the control of customs valuation of goods on the basis of risk factors and prescribed criteria, to identify the cases of fraudulent reduction or increase of the customs value of goods, and to concentrate customs resources for a more effective establishment of the cases of frauds of customs valuation and prevention thereof.

2. The customs value of imported goods shall be determined in accordance with the following legal acts:

2.1. provisions of Articles 29-37 of Chapter VI of the Customs Code of the Republic of Lithuania (Zin., 1996, No 52-1239);

2.2. Procedure on Customs Valuation of Goods, approved by Resolution No 748 of the Government of the Republic of Lithuania on 09 June 1999 (Žin., 1999, No 52-1686);

2.3. other legal acts.

3. This methodology regulates the control of customs valuation of goods released into free circulation (further referred to as imported goods) at the time of customs clearance and additional post-clearance examination.

II. PROCESS OF CONTROL OF CUSTOMS VALUATION OF IMPORT GOODS

4. The customs value of imported goods shall be controlled by Customs authorities of the Republic of Lithuania (hereinafter referred to as Customs authorities) in accordance with the following main provisions:

4.1. examines whether the customs value of goods declared by an importer is in conformity with the provisions and rules of customs valuation of goods established by the legal acts referred to in paragraph 2 of the present Methodology;

4.2. examines whether the documents and data provided which are necessary for the determination of the transaction value of goods and elements thereof are true and accurate and do not contradict each other. On the basis of the documents lodged for customs clearance and the

data therein customs authorities of the Republic of Lithuania shall establish whether they are reliable or raise suspicions as to the falsification or alteration of the documents lodged;

4.3. examines whether the customs value of goods declared by an importer is realistic in comparison with the transaction values of identical or similar goods declared by other importers (comparative or specified comparative prices of imported goods) and the international trade practice (the prices of trade exchanges, world or regional commodity markets);

4.4. carries out the control of the customs value of goods declared by an importer on the basis of risk factors and criteria for selection;

4.5. carries out the control of customs valuation of imported goods at the time of customs clearance and additional post-importation examination;

4.6. if more time is needed for the declarer to determine the declared customs value of goods and to provide additional information and documents, the goods shall be allowed to be released into free circulation only after the importer has submitted a guarantee of the adequate amount;

4.7. if customs authorities have reasonable doubts as to the correctness and authenticity of the document produced for customs clearance, the said authorities shall be entitled to the right to request from the importer to submit not later than within a month an explanation, additional information and documents or any other evidence in order to prove that the declared customs value of goods is equal to the total amount of the price paid or payable as referred to in Article 30 of the Customs Code of the Republic of Lithuania and adjusted according to the provisions of Article 33. If the declarer fails to submit information and documents or the doubts as to the customs value of goods still are there, customs authorities shall have the right to make use of the information at their disposal in order to adjust the transaction value of goods, to adopt a decision not to apply the transaction value method and to use other methods of customs valuation for the purposes of establishing the customs value of goods;

4.8. if it turns out that the customs value of import goods has been determined on the basis of false information, the customs valuation shall be made anew.

4.9. Customs authorities shall have the right to examine the declared customs value of goods, to carry out an investigation and having found commercial frauds, to subject an importer to a legal amenability or to refer the case to the law enforcement institutions.

5. In accomplishing customs valuation of imported goods and examining as to whether the transaction value of goods declared by an importer corresponds to the provisions and rules of the legal acts on customs valuation of goods, Customs authorities shall establish:

5.1. whether purchase and sale took place and goods have been sold for export to an importing country. It shall be established on the basis of the agreements (contracts), invoices, purchase orders;

5.2. whether a third party took part in purchase and sale. On the basis of purchase and sale documents it shall be established whether purchase and sale took place in between the accomplishment of customs procedures of export and import. If a third party took part in purchasing and selling goods, its involvement shall be determined. In this case the following situations are possible:

5.2.1. a third party is an agent, and if it is prescribed in the contract that the third party acts on behalf of the seller, sale commission shall be included into the customs value of goods.

5.2.2. a third party purchases import goods from a seller and resells them to a buyer-importer. In this case the buyer- reseller's margin is reflected in the resale of goods.

6. In accomplishing customs valuation of import goods and examining whether documents are lodged to justify the declared transaction value of goods and elements thereof, Customs authorities shall examine:

6.1. whether documents that are needed to justify the transaction value of goods and elements thereof (paragraph 52 of the Procedure on Customs Valuation of Goods) have been lodged:

6.1.1. seller's invoice with the description of goods, quantity and price;

6.1.2. transport documentation, insurance contracts where transportation costs and insurance costs are indicated;

6.1.3. other documents (contracts with third parties on fees for patents and licenses, etc.) where costs or payments, necessary to be included into or detracted from the transaction value of goods, are indicated.

7. During the examination of commercial, transportation, payment and customs documents provided by the declarer in order to determine customs value the following shall be established:

7.1. whether the data provided in the documents are correct, exhaustive and do not contradict each other. For instance, if the terms of delivery of goods of C and D groups are indicated in the invoice and there is reason to doubt that the transportation costs are unreasonably low, and they are not indicated in the invoice or transport documentation, a customs official must demand the importer to additionally provide the documents of payment of transportation costs to the carrier;

7.2. whether the questions provided in the customs declaration VD1 are answered; whether the data therein correspond to the data in commercial and transportation documents (Instruction on the Completion of Customs Value Declaration and Customs Formalities, approved by Order of Director of the Customs Department No. 605 of 18 December 1996).

8. Features of trade transactions that can be indicators of the fraudulent reduction or increase of customs value are as follows:

8.1. incomplete documentary information;

8.2. exceptionally high or low prices of goods;

8.3. disproportionate transportation costs;

8.4 the quality of goods (for instance, in the invoice the data on a large quantity of goods of a high quality are changed by the data on goods of a low quality in the case of mixed consignment of goods);

8.5. the classification of goods is incorrect;

8.6. information on an importer (use of vague mail addresses, change in the name of the company, change of place of importation, etc.);

8.7. parties in the transaction are related;

8.8. payments in cash;

8.9. register capital incompatible with import or export value;

8.10. goods have been obtained from off-shore companies.

9. Comparative prices of imported goods, established by the Customs Department, are applied to control customs value of imported goods, to assess the amount of the guarantee when it is necessary to additionally verify the declared customs value of goods;

9.1. comparative prices of imported goods are established for goods that are classified under each subheading of the Combined Nomenclature of Goods (CNG) marked by the code of

goods of 9 digits except from goods that are classified in the following chapters of CNG: 36.01 - 36.03, 86.01 - 86.06, 87.02 - 87.05, 87.10, 87.16, 88.01 - 88.02, 89.01 - 89.06, 93, 98;

9.2. a comparative price of import goods is the average arithmetic amount expressed in Litas of the transaction values for the goods classified under CNG subheading marked by the code of goods of 9 digits and calculated under the following formula:

$$K = \frac{\sum_{i=1}^n a_i}{\sum_{i=1}^n b_i}$$

where K - is a reference price of imported goods (i);

a - is the declared value of the transaction of the goods expressed in Litas;

n - is the number of imports during the relevant period of time;

b - is the amount of the declared goods in units specified in the Recommendation Register of Measurement Units Used in the Combined Nomenclature of Customs Tariffs and Foreign Trade Statistics (Order No 323 of Director of the Customs Department of 25 January 1999; Žin., 1999. No 108 - 3165).

9.3. on the basis of the criteria developed by the Ministry of Economy, Ministry of Agriculture and the Customs Department under the Ministry of Finance (goods that are levied with import taxes and excise duties; goods that are of an essential influence to the market of commodities produced by Lithuanian companies; goods imported from countries that have not entered into international agreements on mutual assistance in customs matters with the Republic of Lithuania as well as practice in relation to customs valuation show that customs value of import goods from the above countries is fraudulently reduced) goods which are "sensitive" with respect to Lithuanian economics are determined subject to possible additional control measures prescribed in legal acts regulating customs activity.

9.4. goods which are "sensitive" with respect to the Lithuanian economics shall be subject to the adjusted comparative price of import goods established by the Customs Department under the Ministry of Finance of the Republic of Lithuania. It shall be determined by adjusting the comparative price of imported goods calculated according to paragraph 9.2. of the present Methodology taking into account conclusions and solutions provided by ad-hoc analysis groups for customs valuation of goods that are "sensitive" with respect to Lithuanian economics.

9.5. The Customs Department under the Ministry of Finance of the Republic of Lithuania shall each month, prior to the 25th day of the month, send to regional customs offices PREMI DB (customs valuation databases) data on the customs values of import goods in magnetic media together with the list of comparative prices of imported goods printed on paper. Comparative prices of import goods shall become valid from the 1st day of the next month.

10. In examining whether the transaction value of goods declared by an importer is realistic and if there is any reason to doubt that customs value of goods has been reduced (increased), Customs authorities shall act in compliance with the following provisions:

10.1. customs value of goods declared by the importer shall be compared to the comparative price of imported goods that are classified under the same sub-heading of the Combined Nomenclature of Goods, to transaction values of identical or similar goods declared

by other importers and to the data at the disposal on prices of goods in commodity exchanges, world or regional markets;

10.2. if the PREMI DB does not contain the comparative price of imported goods for the recent period of time, the data contained in PREMI DB for the previous period (up to 6 month) shall be taken into account. The transaction value of seasonal goods declared by an importer may be compared to the comparative price of imported goods of the relevant period of the previous year;

10.3. If for the declared goods the reference price of imported goods classified under the same subheading of the Combined Nomenclature of Goods is not to be found in PREMI DB, the transaction value of goods declared by an importer shall be compared to the comparative price of similar imported goods classified in the neighboring subheadings of the Combined Nomenclature of Goods;

10.4. when a comparative price of import goods is calculated on the basis of less than three imports during the last three months, transaction value of the declared goods shall be additionally compared with a comparative price of imported goods that is calculated on the basis of the data on import of the previous period;

10.5. in cases when goods “sensitive” with respect to the Lithuanian economics are imported, the transaction value of goods declared by an importer shall be compared to the adjusted comparative price of imported goods.

10.6. Where the transaction value declared by an importer exceptionally differs from the comparative price of imported goods, customs officials carrying out customs control shall review the data from PREMI DB on transaction values of identical or similar goods of identical origin, takes into account specific features of the goods classified under the same subheading of the Combined Nomenclature of Goods (technological equipment, raw materials, seasonal goods, used goods, etc);

10.7. A comparative price of imported goods is only one of the criteria to control customs value of imported goods. In comparing the declared transaction value of import goods with comparative prices of import goods the following conditions shall be taken into account:

10.7.1. a kind of goods (the deviation of comparative prices of such imported goods as technological equipment, seasonal goods, perishable goods from comparative prices of imported goods may be greater),

10.7.2. a way of selling the goods (usually, raw materials, metals, grains are sold for the world market prices in commodity markets; therefore, the deviation of comparative prices of the said goods from comparative prices of imported goods may be smaller),

10.7.3. the scope of subheadings of Combined Nomenclature of Goods (a variety of goods of different characteristics, classified under the same subheading in the Combined Nomenclature of Goods; therefore, the deviation of the declared transaction value of goods from comparative prices of imported goods may be greater).

11. Customs valuation of imported goods is controlled by examining other risk factors and selection criteria, too (country of origin, buyers and sellers, carriers, etc.) that are established pursuant to the Methodology of Management and Profiling Risk at Customs, approved by Order of Director of the Customs Department.

III. CUSTOMS VALUATION AND CONTROL OF IMPORTED GOODS AT THE TIME OF CUSTOMS CLEARANCE

12. Customs value of all the goods that are released for the procedure of free circulation shall be verified.

13. Customs officials carrying out customs control shall carefully check and estimate any information and data related to imported goods, establish whether the transaction value of declared goods is realistic, check whether a correct code from the combined Nomenclature of Goods has been applied to certain goods and, before the adoption of a decision as to the acknowledgment of transaction value of import goods, take a decision as to the necessity of carrying out physical examination of goods.

14. If customs value of identical or similar goods previously imported by the same importer has been additionally examined and the transaction value has been accepted on the basis of the decision by a regional customs office or the Customs Department, the declarer shall submit this decision and the copy thereof which shall be attached to copy 6 of the drawn up import set of a single administrative document. The name of the customs office that has adopted the decision, decision number and the date of adoption shall be indicated in box 6 of the submitted declaration (VD1) of customs value.

15. Subject to the results of the verification of correctness of transaction values of the documents lodged and the goods declared and in case there is no reason to doubt that the transaction value has been fraudulently reduced or increased, customs officials shall take the following decisions:

15.1. to apply transaction value method in order to determine customs value of import goods and release the goods into free circulation (after the accomplishment of a customs procedure in the prescribed order);

15.2. to apply transaction value method in order to determine customs value of imported goods by adding to the transaction value (the amount of money paid or payable for imported goods) the costs which are indicated in Article 33 of the Customs Code of the Republic of Lithuania and paragraphs 26-46 of the Procedure on Customs Valuation of Goods, approved by Resolution No 748 of the Government of the Republic of Lithuania on 09 June 1999, and which are imposed on the buyer in case the above costs have not been included in the transaction value of goods;

16. When the results of the verification of correctness of transaction value of the documents lodged and the goods declared show that there are reasonable doubts that customs value of goods declared by an importer has been fraudulently reduced officials at a customs post shall take the following decisions:

16.1. to release the goods into free circulation only after the importer has submitted a guarantee of the amount not less than the amount of import duties and taxes (excluding the duties and taxes already paid) which may be due to be paid for import goods. In this case in box B of the import set of a single administrative document a customs official shall put a seal with an inscription or he/she shall write: “..... territorial customs office. Customs value of the goods No. is subject to an additional examination.”

The amount of the additional guarantee or of another guarantee (instead of the one submitted) shall be calculated on the basis of the comparative price of imported goods classified under the same subheading of the Combined Nomenclature of Goods as the declared goods by subjecting the goods to the due tariffs of import duties and (or) taxes. If the comparative price of import goods can not be found for the declared goods classified under the same subheading of the Combined Nomenclature of Goods in the PREMI DB, the guarantee of the respective amount shall be calculated on the basis of the comparative price of similar goods classified under the

other subheading of the Combined Nomenclature of Goods which are subject to the same determined tariff of import duties and (or) other taxes;

16.2. to calculate customs value of goods using the data possessed by the Customs pursuant to Article 32 of the Customs Code when a declarer fails or holds no right to submit a guarantee;

16.3. to determine customs value of imported goods by using methods of customs valuation of identical or similar goods or by using PREMI DB on the basis of the data possessed pursuant to Article 32 of the Customs Code of the Republic of Lithuania in the case of the importer's approval.

17. On accomplishing a customs procedure and applying transaction value methods of identical and similar goods to determine customs value of imported goods or Article 32 of the Customs Code of the Republic of Lithuania, Customs authorities shall attach a printed PREMI DB extract providing information on previously imported identical or similar goods customs value of which is used as grounds (name of the goods, code from the Combined Nomenclature of Goods, measurement unit of the goods, price of a unit, quantity, country of origin, consignor, number and date of drawing up of a single administrative document). The extract shall be signed by the customs official who has performed the customs control.

18. The Customs shall not request from the importer to submit an additional guarantee of the respective amount where:

18.1. the goods are not subject to import duties and (or) taxes;

18.2. the calculated value of the consignment of goods is less than 3000 Lt. The value of the consignment of goods shall be calculated by multiplying the quantity of the declared goods in units by the comparative price of imported goods.

IV. ADDITIONAL POST-CLEARANCE VERIFICATION OF THE CUSTOMS VALUE OF IMPORT GOODS

19. In cases referred to in paragraph 16.1 the additional verification of the customs value of goods shall be made by customs valuation and audit specialists from the regional customs offices.

Customs valuation and audit specialists from the regional customs offices shall check customs, trade and transport documentation lodged for the purposes of accomplishing customs formalities and, if necessary, shall request in writing the importer to submit additional documents and information necessary for the justification of the declared transaction value and elements thereof within 30 calendar days (since lodging of the request).

20. When the results of the verification of customs value, documents lodged and goods declared show that there is reason to doubt that customs value of the goods declared by an importer has been fraudulently reduced and/ or allows to believe that by reducing fraudulently customs value of imported goods and not paying taxes an importer causes damage to the state, a regional customs office:

20.1. shall check customs valuation of import goods previously imported by the same importer;

20.2. shall perform a partial audit of an economic entity to adjust the transaction value of imported goods or elements thereof and/ or post-clearance audit;

20.3. shall apply, if necessary, to the Customs administration of a country of exportation to provide export documents pursuant to the prescribed procedure;

20.4. shall inform the State Tax Inspection under the Ministry of Finance and/ or the Department of Tax Police under the Ministry of Interior on the cases when additional investigation on the part of the above state institutions is necessary.

21. A regional customs office, taking into account the documents and information lodged by an importer and those lodged for customs clearance (PREMI DB data, export prices of foreign commodity markets, commodity catalogues, price lists, decisions of a regional customs office or the Customs Department on the determination of customs value of identical or similar goods, etc.), shall, no later than within 30 calendar days from the expiry of the date of provision of any additional information (documents), adopt the following decisions:

21.1. to accept the transaction value declared by an importer;

21.2. to apply the transaction value method for the determination of customs value of import goods, having added to the transaction price (the amount of money paid or payable for imported goods) the costs, specified in Article 33 of the Customs Code of the Republic of Lithuania and paragraphs 26-46 of the Procedure on Customs Valuation of Goods approved by Resolution No 748 adopted by the Government of the Republic of Lithuania on 09 June 1999, which fall on the part of the buyer if they have not been included in the price of goods;

21.3. to apply other customs valuation methods to determine customs value of imported goods pursuant to Articles 31-32 of the Customs Code of the Republic of Lithuania and paragraphs 18-25 of the Procedure on Customs Valuation of Goods approved by Resolution No 748 adopted by the Government of the Republic of Lithuania on 09 June 1999;

21.4. to postpone the determination of customs value of imported goods until the receipt of information and documents from foreign central customs administrations in case there is reason to believe that after the fraudulent reduction of customs value of import goods the amount of import duties and taxes payable by an importer is high.

22. The transaction value method shall not be applied to determine customs value of goods if an importer fails to submit an additional information during the period prescribed by paragraph 21 of the present Methodology or if information and data in the documents lodged by an importer contradicts each other and do not justify the transaction value of the goods or elements thereof. Before the adoption of a decision to apply other customs valuation methods to determine customs value of imported goods, the Customs shall inform in writing an importer on his/ her request of the reasons for the above decision. After the receipt of the information the importer shall hold the right to lodge an explanation within the period of 5 days, and the final decision shall be adopted not earlier than after the period prescribed. The importer shall be informed on the final decision and the reasons therefor in writing.