



16 February 2022

(22-1476)

Page: 1/9

Committee on Customs Valuation

Original: English

**NOTIFICATION UNDER ARTICLE 22 OF THE AGREEMENT ON  
IMPLEMENTATION OF ARTICLE VII OF THE GENERAL  
AGREEMENT ON TARIFFS AND TRADE 1994**

GEORGIA

The following submission, dated 10 February 2022, is being circulated at the request of the delegation of Georgia.

The Government of Georgia wishes to notify that the customs valuation of goods imported to Georgia is carried out in accordance to the Chapter VI (Customs Value of Goods) of the Customs Code of Georgia<sup>1</sup>.

Below is given the extracts of the provisions from the Customs Code of Georgia regulating the customs valuation of goods.

Furthermore, to complement the existing regulatory framework, Georgia also wishes to notify, that the Procedural Manual on Customs Valuation Control<sup>2</sup> was introduced in 2020 approved by the Order of The Director General of the Revenue Service.

The Manual seeks to provide a structured guideline for Customs valuation formalities and procedures as to ensure efficient implementation of national legislation and of international obligations as applicable.

**Article 37 – General provisions of the customs valuation of goods**

1. The customs valuation of goods shall be carried out in accordance with this Code and the procedures laid down in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.
2. During the declaration of goods, the declarant shall carry out the customs valuation of the goods, and the customs authorities shall control the accuracy of the customs value of goods determined by the declarant.

<sup>1</sup> <https://matsne.gov.ge/en/document/view/4598501?publication=2>

<sup>2</sup> <https://www.rs.ge/Media/Default/%E1%83%99%E1%83%90%E1%83%9C%E1%83%9D%E1%83%9C%E1%83%9B%E1%83%93%E1%83%94%E1%83%91%E1%83%9A%E1%83%9D%E1%83%91%E1%83%90/%E1%83%A1%E1%83%90%E1%83%91%E1%83%90%E1%83%9F%E1%83%9D/%E1%83%A1%E1%83%90%E1%83%91%E1%83%90%E1%83%9F%E1%83%9D%20%E1%83%A6%E1%83%98%E1%83%A0%E1%83%94%E1%83%91%E1%83%A3%E1%83%9A%E1%83%94%E1%83%91%E1%83%90%20%E1%83%93%E1%83%90%E1%83%A1%E1%83%90%E1%83%9B%E1%83%A2%E1%83%99%E1%83%98%E1%83%AA%E1%83%94%E1%83%91%E1%83%94%E1%83%9A%E1%83%98..pdf>

3. The fact that the goods are subject to sale and are declared for the purpose of release for free circulation is sufficient to consider those goods as sold for export to Georgia. Where, after the sale of the goods for export to Georgia, they have been resold (including in the customs warehouse), the price of their sale for export to Georgia shall be applied for the customs valuation of the goods.

4. For the purposes of this chapter, persons shall be deemed to be related if:

- a) they manage one another's businesses (they are the persons authorized to manage the business entity);
- b) they are legally recognized business partners (persons related by business interests);
- c) they are employer and employee;
- d) a third person directly or indirectly holds or controls 5% or more of the voting shares of both of them, or a third person owns 5% or more of such shares;
- 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;
- h) they are members of the same family.

5. For the purposes of this chapter, persons associated in business, one of which is the other's exclusive agent, distributor or concessionaire, shall be considered to be related persons if they fall within the criteria provided for by paragraph 4 of this article.

6. The customs valuation of imported goods shall be carried out based on the following methods:

- a) based on the transaction value (the first method);
- b) based on the transaction value of identical goods (the second method);
- c) based on the transaction value of similar goods (the third method);
- d) based on the unit price of goods (the fourth method);
- e) based on the computed value (the fifth method);
- f) based on the reserve method (the sixth method).

7. Each method of customs valuation of goods provided for by paragraph 6 of this article shall be proceeded sequentially where the previous method cannot be reasonably applied. The declarant shall have the right to change the order of application of the methods of customs valuation of goods provided for by paragraph 6(d) and (e) of this article.

8. After the sale of goods for export to Georgia, the use of those goods in a third country before they are placed under release for free circulation may serve as grounds for refusal to determine the customs value of the goods based on the transaction value.

9. For the purposes of determining the customs value of goods, the price actually paid and/or payable shall be the total payment made or to be made by the buyer to the seller, or to be made for the benefit of the seller. Such price shall include all payments, both direct and indirect, as a condition of sale of the goods.

10. The amount of indirect taxes paid in the country of origin of goods or the country of export of goods shall not be included in the customs value of the goods.

11. Where, by the time of determining the customs value of goods:

- a) the price of the goods has not been actually or fully paid, the price payable fully shall be used in determining their customs value;
- b) the final price payable for the goods is higher than the price actually paid and/or payable, the final price payable shall be used in determining their customs value;
- c) the final price payable for the goods is lower than the price actually paid and/or payable, the final price payable may be used in determining their customs value on the basis of the declarant's application, if this is an obligation laid down in the original contract.

12. Where the declared goods are part of the consignment purchased in a single transaction, the transaction value of the goods shall be as proportional to the price of the entire consignment as the

quantity of the declared goods to the quantity of the entire consignment. The price actually paid or payable shall also be apportioned where part of the cargo has been lost.

13. In determining the customs value of goods, the provisions of this chapter shall also apply where the goods are placed under another customs procedure before they are released for free circulation or where the end use of the goods is changed.

#### **Article 38 – Transaction value method**

1. This article shall be applicable in combination with Article 44 of this Code, which provides for the adjustment of the price actually paid and/or payable for goods, where the buyer is required to pay certain elements which are part of the customs value but are not included in the price actually paid or payable for the goods.

2. The customs value of goods shall be determined based on the transaction value, i.e. the price actually paid and/or payable for the goods sold for export to Georgia, taking into account the requirements of Article 44 of this Code, provided that all of the following conditions are fulfilled:

- a) there are no restrictions as to the disposal or use of goods by the buyer, except for restrictions which:
  - a.a) are established or required by the legislation of Georgia;
  - a.b) define the list of the geographical areas in which the goods may be resold;
  - a.c) do not affect the value of goods;
- b) the sale or price of the goods is not related to any condition or circumstance for which a value cannot be determined with respect to the value of goods. Where a value cannot be determined for such condition or circumstance, that value shall be considered as indirect payment made by the buyer and therefore as part of the price actually paid or payable;
- c) no part of the proceeds of any subsequent sale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, except in cases where an appropriate adjustment can be made in accordance with Article 44 of this Code;
- d) the price actually paid or payable is calculated on the basis of objective and grounded data;
- e) the buyer and the seller are not related persons. Where the buyer and the seller are related persons, the possibility of applying the transaction value method for determining the customs value of goods shall be determined taking into account paragraphs 3 and 6 of this Article.

3. Only the fact that the buyer and the seller are related persons shall not serve as grounds for refusing the application of the transaction value method in determining the customs value of goods. In such case, all the circumstances of the sale of goods shall be verified and the transaction value shall be applied, unless the relationship between the said persons had an influence on the transaction value of the goods.

4. Where, on the basis of the information submitted by a declarant or otherwise received, the customs authorities have reasonable doubt that the relationship between the buyer and the seller has influenced the transaction value of goods, the customs authorities shall inform the declarant of their reasoned opinions (in writing where the declarant so requests). The declarant shall have the right to provide appropriate explanations in respect of the said opinions.

5. Where the buyer and the seller are related persons, the customs value of goods shall be determined on the basis of the transaction value method if the declarant has provided the customs authorities with evidence that the above value is as close as possible to any of the following values determined within the same period of time:

- a) the transaction value of identical or similar imported goods that the seller has sold to an unrelated person (buyer);
- b) the customs value of identical or similar goods under Article 41 of this Code;
- c) the customs value of identical or similar goods under Article 42 of this Code.

6. The procedure prescribed by paragraph 5 of this article shall be applied, if the declarant so wishes, for comparison purposes only. However, account shall be taken of the differences between commercial and quantitative levels, in the elements provided for by Article 44 of this Code, and the

costs incurred by the seller following the sale of goods where the buyer and the seller are not related persons.

**Article 39 – Method based on the transaction value of identical goods**

1. Where the customs value of imported goods cannot be determined on the basis of the transaction value method, the customs value of goods shall be considered to be the transaction value of identical imported goods that were sold for export to Georgia and exported at or about the same time as the goods being valued.

2. For the purpose of this article, 'export of identical goods at or about the same time' means that the difference between the date of export of identical goods and the date of export of the goods to be valued does not exceed 30 days (the goods to be valued were exported 30 days before the export of identical goods or 30 days after their export).

3. For the purposes of determining the customs value of goods, goods shall be considered to be identical if these goods and the goods to be valued are identical by their physical characteristics, quality, reputation and country of origin. Goods shall be considered to be identical regardless of minor external differences between these goods and the goods to be valued, provided that they comply with the above definition in respect of other criteria.

4. Identical goods shall not be goods where the engineering, processing, artistic design, drawings and sketches thereof were produced in Georgia.

5. In applying this article, the transaction value of goods produced by a different person shall be taken into account where no data on the transaction value of identical goods produced by the same person (producer) can be found.

6. The basis for determining the customs value of goods in accordance with paragraph 1 of this article shall be one of the following:

- a) the transaction value of identical imported goods registered by the customs authorities which were sold for export to Georgia at the same commercial level and in the same quantity as the goods being valued (and the volume and price of the consignment are implied);
- b) in the absence of a condition under subparagraph (a) of this paragraph, the transaction value of identical imported goods registered by the customs authorities which were sold at a different commercial level and/or in different quantities, provided that the customs value of such goods is adjusted taking into account the differences attributable to commercial level and/or to quantity. Such adjustment may be made on the basis of evidence provided to the customs authorities, which proves the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the customs value of the goods.

7. In order to take account of the difference in costs provided for by Article 44(6) of this Code resulting from the difference between the means of transport used to transport the goods to be valued and identical imported goods, and the distances of transport, adjustments to the customs value of the goods shall be carried out.

8. For the purpose of this article, the customs value of imported identical goods, adjusted in accordance with paragraphs 6 and 7 of this Article, shall only be determined on the basis of the transaction value method.

9. Where more than one transaction value of identical imported goods has been identified, the lowest value shall be applied for determining the customs value of the goods to be valued.

**Article 40 – Method based on the transaction value of similar goods**

1. Where the customs value of imported goods cannot be determined on the basis of the transaction value method or the method based on the transaction value of identical goods, the customs value of goods shall be considered to be the transaction price of such similar goods as were sold for export to Georgia and exported at or about the same time as the goods being valued.

2. For the purpose of this article, 'exported at or about the same time' means that the difference between the date of export of similar goods and the date of export of the goods being valued does not exceed 30 days (30 days before or after the export).

3. For the purposes of determining the customs value of goods, similar goods shall be goods which are not exactly the goods being valued, however the similar goods and the goods being valued have the same country of origin, like physical characteristics and like component materials, which enable them to perform the same functions as the goods being valued and to be commercially interchangeable.

4. Similar goods shall not be goods where the engineering, processing, artistic design, drawings and sketches of such goods have been produced in Georgia.

5. In applying this article, the transaction value of goods produced shall be taken into account where no data on the transaction value of similar goods produced by the same person(producer) can be found.

6. The basis for determining the customs value of imported goods in accordance with paragraph 1 of this article shall be one of the following:

- a) the transaction value of similar imported goods registered by the customs authorities which were sold in Georgia at the same commercial level and in the same quantity as the goods being valued (and the volume and price of the consignment are implied);
- b) in the absence of a condition under subparagraph (a) of this paragraph, the transaction value of similar imported goods registered by the customs authorities which were sold at a different commercial level and/or in different quantities, provided that the customs value of the above goods is adjusted taking into account the differences attributable to commercial level and/or to quantity. Such adjustment may be made on the basis of evidence provided to the customs authorities, which proves the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the customs value of the goods.

7. In determining the customs value of goods, adjustments to the customs value of goods shall be carried out in order to take account of the difference in costs provided for by Article 44(6) of this Code incurred due to the difference between the means of transport used to transport the goods to be valued and similar imported goods, and the distances of transport.

8. For the purpose of this article, the customs value of similar imported goods, adjusted in accordance with paragraphs 6 and 7 of this Article, shall only be determined on the basis of the transaction value method.

9. Where more than one transaction value of similar imported goods has been identified, the lowest value shall be applied for determining the customs value of the goods to be valued.

#### **Article 41 – Method based on the unit price**

1. For the purpose of this article:

- a) identical goods shall be goods which comply with the requirements established by Article 39(3) and (4) of this Code;
- b) similar goods shall be goods which comply with the requirements established by Article 40(3) and (4) of this Code;
- c) goods of the same class or kind shall be goods, which are of the same type with the goods being valued by their basic physical characteristics; however, their characteristics are as close as possible to the characteristics of the goods being valued and they belong to a narrow group, order and nomenclature of the type of goods. Goods of the same class or kind may be considered to be goods which are imported into Georgia from the country of export of the goods being valued or other country.

2) Where the goods being valued, or identical or similar goods, are sold in Georgia in the same form as they were imported into Georgia (in an unaltered state), the customs value of the goods being valued shall be determined based on the unit price at which identical or similar goods were imported

at or about the same time as the goods being valued, and were sold in the greatest quantity to unrelated persons, at the first commercial level, taking into account the following deductions:

- a) commissions normally payable or agreed to be paid in advance, or a cost plus that is normally applied for the purpose of making a profit and the reimbursement of costs associated with the sale of goods of the same class or kind in Georgia;
- b) ordinary transportation and insurance costs incurred in Georgia and related costs;
- c) taxes and other duties provided for by the legislation of Georgia, which are related to the import or sale of goods.

3. Where the goods being valued, or identical or similar goods, are not sold in Georgia at or about the same time as the goods being valued were imported into Georgia, the customs value of the goods being valued shall, taking into account paragraph 2 of this article, be determined based on the unit price at which the goods being valued, or identical or similar goods, are sold in the nearest time after the import of the goods being valued, but not later than 90 days, in the same form as they were imported into Georgia (in an unaltered state).

4. Where the goods being valued, or identical or similar goods, are not sold in Georgia in the same form as they were imported into Georgia (in an unaltered state), the customs value of the goods being valued shall, at the request of the declarant, be determined based on the unit price at which the goods being valued will be sold in the greatest quantity to unrelated persons after being processed in Georgia. However, the added value emerging during the processing of the goods being valued shall be deducted from their value, and the deductions provided for by paragraph 2 of this article shall be made.

#### **Article 42 – Computed value method**

1. The customs value of goods shall be a computed value consisting of the following elements:

- a) the value of fabrication and/or processing of materials used in producing the goods;
- b) the amount of profit gained and general expenses in sales of goods of the same class or kind as the goods being valued, which are made by producers in the country of export for export to Georgia;
- c) the costs provided for by Article 44(6) of this Code.

2. The value of fabrication and/or processing of materials used in producing the goods, provided for by paragraph 1(a) of this article shall include:

- a) the costs provided for by Article 44(1)(b) and (c) of this Code;
- b) the value, apportioned as appropriate, of any goods or services provided for by Article 44(2) of this Code, which were supplied directly or indirectly by the buyer to the seller in connection with the production and sale for export to Georgia of the imported goods. The value of the elements produced in Georgia, provided for by Article 44(2)(c) of this Code, shall be included in the customs value only if the producer has incurred the appropriate costs for those elements. When calculating the value, the price or value of the elements referred to in this paragraph shall not be taken into account twice.

3. The general expenses provided for by paragraph 1(b) of this article shall include direct and indirect costs incurred in the production and sale of export goods, which are not provided for by paragraph 1(a) of this Article.

#### **Article 43 – Reserve method**

1. Where the customs value of imported goods cannot be determined on the basis of Articles 38–42 of this Code, the customs value of the goods shall be determined using reasonable means which are consistent with:

- a) provisions of Article VII of the 1994 General Agreement on Tariffs and Trade;
- b) general principles and provisions of the Agreement on the Implementation of Article VII of the 1994 General Agreement on Tariffs and Trade;
- c) the general principles and provisions of this chapter.

2. The following shall not be used as a basis for determining the customs value of goods on the basis of the reserve method:

- a) the domestic sale price of goods produced in Georgia;
- b) the price of goods in the domestic market of the exporting country;
- c) the price of export goods in a foreign country;
- d) the minimal customs value of goods;
- e) the arbitrarily selected or fictitious value of goods;
- f) the principle of obtaining the largest of the two values of goods;
- g) the cost of production of goods, other than the computed value, determined for identical or similar goods in accordance with Article 42 of this Code.

3. The customs value of the goods determined on the basis the reserve method shall, as much as possible, be based on the customs value of the goods previously determined.

4. The price to be used in the control of the accuracy of determining the customs value of goods on the basis of the reserve method may include data obtained from open sources of information and as a result of the generalization of practice, which are of an informative nature and are used only to establish the accuracy of the customs valuation of goods.

#### **Article 44 – Elements of the customs value of imported goods**

1. In determining the customs value of imported goods on the basis of Article 38 of this Code, the following costs shall be added to the transaction value, provided that they have actually been incurred by the buyer but are not included in the transaction value:

- a) commissions and brokerage (except for buying commissions) for the payment of which the importer has paid his/her/its agent an amount in exchange for the services provided in purchasing the goods being valued;
- b) the cost of containers which are treated as being one with the goods in question for the purposes of releasing goods for free circulation. Where such container is re-usable, its value shall, at the request of the declarant, be apportioned among the goods being valued using international accounting standards;
- c) the cost of packing of the goods, including the costs of labour and packing materials.

2. Where goods or services are directly or indirectly supplied by the buyer to the seller free of charge or at a reduced price, and they are used in connection with production and sale for export to Georgia of the imported goods, in determining the customs value of the imported goods on the basis of Article 38 of this Code, the value, apportioned as appropriate, of the following goods and services shall be included in the transaction price to the extent that such value has not been included in the price actually paid or payable:

- a) materials, raw materials, parts and other components incorporated into the goods;
- b) tools, dies, moulds and other components used in the production of the goods;
- c) materials consumed in the production of the goods;
- d) engineering, development, artwork, design work, drawing works, plans, schemes, sketches and other works performed outside Georgia (services are considered to be provided outside Georgia if the place where the service is provided is not Georgia in accordance with Article 166 of the Tax Code of Georgia and the transaction is not subject to a VAT reverse charge).
- [d) engineering, development, structural design and artwork, design work, drawing works, plans, schemes, sketches and other works performed outside Georgia (services are considered to be provided outside Georgia unless the place where the service is provided is Georgia in accordance with Article 162<sup>1</sup> of the Tax Code of Georgia and the transaction is subject to a VAT reverse charge). (*effective from 1 January 2021*)]

3. For the purposes of paragraph 2 of this article, the value of goods or services that is to be included in the customs value shall be determined based on the price at which the buyer purchased them. Where the goods are produced by the buyer, their value shall be determined based on the buyer's accounting documents. Where the goods in question have depreciated, their value shall be determined based on depreciation rates.

4. In determining the customs value of imported goods on the basis of Article 38 of this Code, royalties and licence fees related to the goods that the buyer must pay, either directly or indirectly, as a condition of an agreement on the sale or purchase of the imported goods, shall be included in the transaction value to the extent that such royalties and fees are not included in the price paid or payable. Licence fees shall be fees for patents, trademarks, copyright, or know-how. However, licence fees and intellectual property fees shall be included in the customs value of goods if the pieces of intellectual property are inseparable from the imported goods and this condition has been specified in the contract. Where the buyer pays the license fee to a third person, this shall be agreed with the buyer.

5. In determining the customs value of imported goods on the basis of Article 38 of this Code, to the transaction price shall be added the value of any part of the proceeds of any subsequent resale, disposal or use of the goods that accrues directly or indirectly to the seller.

6. The following costs, up to the place where goods are brought into the customs territory of Georgia, shall be included in the customs value of the imported goods:

- a) transportation costs, and loading and handling (including warehousing) charges. Where different consignments are imported by the same means of transport, the transportation costs shall be proportionally distributed, which shall be laid down in the contract concluded with the carrier;
- b) insurance costs, if borne by the declarant.

7. The costs provided for by this article shall only be included in the price actually paid or payable on the basis of documented data.

8. In determining the customs value of the imported goods, the costs not provided for by this article shall not be included in the transaction value.

9. The following costs shall not be included in the customs value of the imported goods if these costs are shown separately from the price actually paid or payable:

- a) taxes and fees provided for by the legislation of Georgia;
- b) transportation costs after crossing the customs border of Georgia;
- c) charges for construction and erection works, and warehouse, maintenance or technical assistance incurred after the entry of the goods;
- d) charges associated with procedures for crossing the customs border of Georgia and other charges associated with the movement of goods brought into the territory of Georgia;
- e) charges for interest under a financing agreement entered into by the buyer and relating to the purchase of the import goods, provided that:
  - e.a) these interest charges are separated from the actual price of the goods;
  - e.b) the financing agreement has been made in writing;
  - e.c) where necessary, the buyer may demonstrate that the goods are actually sold at the price declared and that the rate of interest does not exceed the average rate of interest effective in respect of similar financing agreements at the time when the finance was provided and in the country where the financing person is located. This provision shall apply irrespective of whether the transaction is financed by the seller, a bank or a third person;
- f) charges for obtaining the right to process imported goods in Georgia;
- g) costs incurred by the buyer for obtaining the right to distribute or sell imported goods.

*Law of Georgia No. 6818 of 14 July 2020 -Website, 22.7.2020.*

#### **Article 45 – Determination of the customs value of a carrier medium of automated data processing or other software**

1. In determining the customs value of a carrier medium of automated data processing or other software, only the price of the software shall be taken into account. Where the value of automated data processing or other software is not separated from the value of the software carrier medium, the value of the carrier medium shall be determined taking into account Articles 38–44 of this Code.

2. For the purpose of this article, 'software carrier medium' shall not include integrated circuits and similar devices, nor any parts thereof.

**Article 46 – Simplified procedure for determining the customs value of goods**

Where the actually paid and/or payable price or the value of elements (which are or are not included in the customs value of goods) is not quantifiable on the date on which the customs declaration is registered, the customs authorities may permit the person concerned, on the basis of his/her application, to determine the price or the value of elements on the basis of specific criteria. Cases where such valuation on the basis of specific criteria may take place shall be determined by an order of the Minister of Finance of Georgia.

---