



The Methods of Valuation (Import Duty) Regulations, 2019

<i>Made</i>	1 st April, 2019
<i>Coming into operation</i>	See Regulation 23
<i>Laid before the States</i>	, 2019

THE COMMITTEE FOR HOME AFFAIRS, in exercise of the powers conferred on it by sections 4 and 9 of the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Chapter 1

Use of methods of valuation

Use of Methods of valuation.

1. (1) To determine the value of goods liable to import duty, follow step 1 and step 2 (where required).

(2) Step 1: apply in the following sequence -

(a) Method 1 valuation,

^a Order in Council No. VI of 2019.

(b) Method 2 valuation, and

(c) Method 3 valuation,

until a Method is found by which the full value of the goods can be readily determined and if none is found, proceed to step 2.

(3) Step 2: apply in the following sequence -

(a) Method 4 valuation then Method 5 valuation, or in reverse order as the person who would make any Customs declaration elects, and

(b) Method 6 valuation,

until the full value of the goods can be readily determined.

(4) A transaction value must be adjusted as necessary to include and exclude as elements of the value such of the specified matters which are not already taken into account as elements of the value.

(5) Where -

(a) a Method is being applied which uses a transaction value,

(b) the value of a specified matter cannot be readily determined, and

- (c) the Chief Revenue Officer considers that the value would be a significant element of the value of the goods,

that Method is not to be used in the valuation of the goods.

(6) The specified matters to be included as elements of a transaction value are -

- (a) the value of each item set out in regulations 4 to 6 but taking into account any depreciation for an item which is a re-used item, and
- (b) any amount which is payable in respect of the goods or their importation at a time other than the time when the goods are sold for export to the Bailiwick.

(7) The specified matters to be excluded as elements from a transaction value are the value of each item set out in Chapter 3.

(8) The Chief Revenue Officer may presume that where the buyer and seller of goods liable to import duty are related persons, in the application of Method 1 valuation, the transaction value of the goods is not the full value unless the Chief Revenue Officer is satisfied to the contrary.

Provision of evidence.

2. The Chief Officer of Customs and Excise may publish a notice specifying the type of evidence to be provided to the Chief Revenue Officer which supports -

- (a) the use of one Method instead of another, or

- (b) the determination of a valuation.

Currency.

3. (1) The value of chargeable goods for the purposes of these Regulations must be calculated and expressed in sterling.

(2) If an amount that is relevant for the purpose of calculating the value of goods for the purposes of these Regulations is expressed in a currency other than sterling, the amount must be converted into its sterling equivalent.

(3) The conversion must be made in accordance with provision contained in a notice given by the Chief Officer of Customs and Excise.

(4) The notice in paragraph (3) may make provision -

(a) specifying the exchange rate that must be used for the purposes of this section,

(b) for the conversion to be made by reference to an exchange rate applicable at any time (including a time earlier than that at which an importation took place) or by reference to the average exchange rate for a specified period,

(c) for the exchange rate determined in accordance with the notice to apply to transactions or other events taking place in a specified period,

- (d) for adjusting the applicable exchange rate if the value of sterling against the currency concerned has increased or decreased by more than a specified percentage, and
- (e) for any conversion to be rounded up or down.

Chapter 2

Transaction value: specified matters – included elements

Transaction value: included items.

4. (1) The items referred to in regulation 1(6)(a) as specified matters to be included as elements of a transaction value are the following -

- (a) the container of the goods,
 - (b) the packaging of the goods,
 - (c) transport and insurance of the goods, up to the time the goods are imported into the Customs Territory,
 - (d) loading and handling of the goods, up to the time the goods are imported into the Customs Territory,
 - (e) commission, except buying commission, and brokerage fees paid by the buyer of the goods, and
 - (f) export duty charged in the place of origin.
- (2) The value of the items in paragraph (1) is -

- (a) in respect of subparagraphs (a) to (d), subject to paragraph (3), the cost of the item,
- (b) in respect of subparagraph (e), the amount of the commission and fees paid, and
- (c) in respect of subparagraph (f), the amount of the duty.

(3) Where goods are transported by air, the cost of the air transport is the percentage of that cost as set out in the document issued by HMRC entitled, "Air Transport Costs to be included in the customs value", as from time to time amended or re-issued (with or without modification).

Transaction value: further included items -partial value.

5. (1) The items referred to in regulation 1(6)(a) as specified matters to be included as elements of a transaction value further include the following, where the buyer of the goods provides them to the seller other than for full valuable consideration -

- (a) materials, components or parts of the goods,
- (b) materials consumed in the production of the goods,
- (c) dies, moulds or tools used in the production of the goods, and
- (d) each item listed in paragraph (2) which is provided outside of the Customs Territory in relation to the production or development of the goods.

(2) The items referred to in paragraph (1)(d) are -

- (a) artwork,
- (b) designs,
- (c) development services,
- (d) engineering work or services, and
- (e) plans or drawings.

(3) Paragraph (1)(d) applies to an item even if it is not intended to be used by the buyer in the processing, use or disposal of the goods.

(4) Subject to paragraphs (5) and (6), the value of an item in paragraph (1) is -

- (a) if it can be readily determined -
 - (i) where the buyer or a related person of the buyer did not produce the item, the price paid by the buyer for the item, or
 - (ii) where the buyer or a related person of the buyer produced the item, the cost to the buyer or related person of producing the item, or
- (b) otherwise, a value determined in accordance with the principles adopted by the World Trade Organisation in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

(5) In respect of an item to which paragraph (1)(c) or (d) applies, where the item is used or provided in relation to other goods as well as the goods to be valued, the value is to be apportioned proportionately between the other goods and the goods to be valued.

(6) The total value of the items to which paragraph (1) applies is to be reduced by the amount of the value of the consideration provided by the seller.

Transaction value: further included items - royalties or licence fees.

6. (1) The items referred to in regulation 1(6)(a) as specified matters to be included as elements of a transaction value further include a royalty or licence fee payable by the buyer to the seller where -

- (a) the royalty or licence fee is payable when the buyer sells the goods, and
- (b) such payment forms part of the agreement between the buyer and seller for the import of the goods into the Customs Territory.

(2) The value of the royalty or licence fee is, if it can be readily determined, the amount payable.

Chapter 3

Transaction value: specified matters – excluded elements

Transaction value: excluded items.

7. (1) The items referred to in regulation 1(7) as specified matters to be excluded as elements from a transaction value are the following -

- (a) import duty in respect of the goods,
- (b) buying commission in respect of the goods,
- (c) the right to reproduce the goods in the Customs Territory,
- (d) transport and insurance of the goods, after the time the goods are imported into the Customs Territory, and
- (e) the assembly, construction, erection or maintenance of the goods or the provision of technical assistance in relation to the goods, to the extent such an activity applies after the time the goods are imported into the Customs Territory.

(2) The value of an item in paragraph (1) is -

- (a) in respect of subparagraph (a), the amount of the import duty,
- (b) in respect of subparagraphs (b) to (e) -
 - (i) if it can be readily determined, the amount payable for the item by the buyer of the goods, or
 - (ii) otherwise, a value determined in accordance with the principles adopted by the World Trade Organisation in the Agreement on

Implementation of Article VII of the General
Agreement on Tariffs and Trade 1994.

Transaction value: further excluded items - royalties or licence fees.

8. (1) The items referred to in regulation 1(7) as specified matters to be excluded as elements from a transaction value further include a royalty or licence fee agreed to be paid by the buyer to the seller where -

- (a) the royalty or licence fee is payable when the buyer sells the goods, and
- (b) the agreement to pay the royalty or licence fee is a separate agreement to that entered into between the buyer and seller for the import of the goods into the Customs Territory.

(2) The value of the royalty or licence fee is, if it can be readily determined, the amount agreed to be paid.

Transaction value: further excluded items - finance interest.

9. (1) The items referred to in regulation 1(7) as specified matters to be excluded as elements of a transaction value further include finance interest.

(2) For the purposes of this regulation -

- (a) "**finance interest**" means the interest charged under a relevant finance agreement which is attributable to the finance used to purchase the goods, and
- (b) "**relevant finance agreement**" means a written finance agreement between the buyer and seller of the goods

entered into to enable the buyer to buy the goods and where -

- (i) the rate of interest payable under the finance agreement does not exceed that usually payable under similar agreements in the territory where the finance agreement was entered into, and
- (ii) in cases where the buyer sells the goods within a period of 30 days beginning with the day after the date of their release for home use , they are sold at no less than the value declared in the Customs declaration.

(3) The value of the finance interest is, if it can be readily determined, the amount of the interest.

Transaction value: further excluded items - costs during storage and increase in value.

10. (1) The items referred to in regulation 1(7) as specified matters to be excluded as elements from a transaction value further include in respect of the goods -

- (a) costs incurred for storage of the goods held in storage further to a special customs procedure, and
- (b) any increase in value which occurs after the goods are imported into the Customs Territory.

(2) Paragraph (1) applies where -

- (a) the goods are -
 - (i) declared for a special Customs procedure, and
 - (ii) subject to any operation specified in a notice published by the Chief Officer of Customs and Excise which are designed to preserve them, improve their appearance or marketable quality or otherwise prepare them for distribution or resale, and
 - (b) costs are incurred, or any increase in value occurs, by virtue of those operations ("**operations costs or increase in value**").
- (3) The value is, if it can be readily determined, the amount of the costs or increase in value.

CHAPTER 4

Methods of valuation

Method 1 valuation.

11. "Method 1 valuation" is the general rule of valuation provided by section 4(1) of the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018.

Method 2 valuation.

12. (1) "Method 2 valuation" means the valuation of goods liable to import duty determined by the valuation method in paragraph (2).

(2) The valuation method is -

- (a) identify the transaction value of identical goods sold for export to the Customs Territory within the 90 day period, and
 - (b) apply that value to the goods liable to import duty as the value of the goods which applies immediately before they are released for home use
- (3) The identification is to be made in accordance with regulation 14.

Method 3 valuation.

13. (1) "Method 3 valuation" means the valuation of goods liable to import duty determined by the valuation method in paragraph (2).

- (2) The valuation method is -
- (a) identify the transaction value of similar goods sold for export to the Customs Territory within the 90 day period, and
 - (b) apply that value to the goods liable to import duty as the value of the goods which applies immediately before they are released for home use.
- (3) The identification is to be made in accordance with regulation 14.

Method 2 and Method 3 valuation: identification of transaction values.

14. (1) The identification of the transaction value of identical goods or similar goods sold for export to the Customs Territory within the 90 day period must be based on a sale of such goods which -

- (a) is made by the same seller as the seller of the goods liable to import duty or, where no such sale exists in the 90 day period, is made by a seller who is in the equivalent position in the supply chain as the seller of the goods liable to import duty,
- (b) is made to the same buyer as the buyer of the goods liable to import duty or, where no such sale exists in the 90 day period, is made to a buyer who is in an equivalent position in the supply chain as the buyer of the goods liable to import duty,
- (c) is the nearest in time to the time the goods liable to import duty are imported, and
- (d) is of an equivalent quantity as the sale of the goods liable to import duty.

(2) If more than one such sale is identified, the sale which produces the lower or lowest valuation is the transaction value to be applied.

Method 4 valuation - other than goods to which regulation 16 applies.

15. (1) "Method 4 valuation" means, subject to paragraph (2), the valuation of goods liable to import duty which is determined by the following steps.

(2) Paragraph (1) does not apply to goods to which regulation 16 applies.

(3) Step 1: identify whether or not there is a sale of the goods liable to import duty which occurs within the period of 90 days which begins immediately after the date on which the goods liable to import duty are imported into the Customs Territory and proceed to step 2.

(4) Step 2: if -

(a) there is a sale, proceed to step 3, or

(b) there is no sale and -

(i) step 7 has not already been applied, proceed to step 7,

(ii) step 7 has been applied, proceed to step 8, unless step 8 has already been applied,

(iii) step 8 has already been applied, cease to use Method 4 valuation.

(5) Step 3: identify the earliest sale and exclude any sale where the buyer and seller of the goods are related persons and -

(a) if that leaves no sale, repeat step 2, beginning at paragraph (b), or

(b) otherwise, proceed to step 4.

(6) Step 4: exclude any sale where the quantity sold is insufficient to give a representative quantity in order to determine a unit price and -

(a) if that leaves no sale, repeat step 2, beginning at paragraph (b), or

(b) otherwise, proceed to step 5.

(7) Step 5: include and exclude, as the case may be, as elements of the sale such of the specified matters which are not already taken into account as elements of the sale and proceed to step 6.

(8) Step 6: use the total sale value obtained by step 5 to determine the unit price of the goods and apply that unit price to all of the goods liable to import duty as the value of the goods which applies immediately before they are released for home use.

(9) Step 7: repeat step 1 but as if the reference to "goods liable to import duty" were instead a reference to "similar goods which have not been processed".

(10) Step 8: repeat step 1 but as if the reference to "goods liable to import duty" were instead a reference to "similar goods which have been processed" but only if the amount of the value of the processing carried out to the goods can be determined.

(11) Where step 5 applies after the application of step 8, the amount of the value of the processing carried out to the goods is to be deducted in identifying the unit price of the sold goods.

Method 4 valuation - fresh fruit and vegetables.

16. (1) This regulation applies to goods liable to import duty which are fresh fruit and vegetables meeting the description and with the commodity codes set

out in the document issued by HMRC entitled, "Fresh fruit and vegetables under Method 4 valuation", as from time to time amended or re-issued (with or without modification).

(2) The valuation of the goods is to be determined by reference to the wholesale price of the goods at the date of import, being the price as set out in a notice published by HMRC, as from time to time amended or re-issued (with or without modification), in accordance with regulation 124 of the Custom (Import Duty) (EU Exit) Regulations 2018^b.

Method 5 valuation.

17. (1) "**Method 5 valuation**" means the valuation of goods liable to import duty which is determined by the valuation method in paragraph (2).

(2) The valuation method is -

(a) identify -

- (i) the cost of producing the goods and the cost of the container and packaging of the goods,
- (ii) the costs of transport and insurance of the goods, up to the time the goods are imported into the Customs Territory,
- (iii) loading and handling charges of the goods, up to the time the goods are imported into the Customs Territory,

^b UK SI 2018 No. 1248.

- (iv) the amount of expenses usually incurred in enabling comparable goods to be sold in the place of export of the goods, and
 - (v) the amount of profit usually arising on a sale of comparable goods in the place of export of the goods,
- (b) total the costs, charges and amounts in subparagraph (a), and
 - (c) apply that total as the value of the goods liable to import duty which applies immediately before they are released for home use.

(3) The cost of producing the goods must include the cost of each item listed in paragraph (4) which is provided outside of the Customs Territory in relation to the production or development of the goods, if the cost of the item is charged to the buyer.

- (4) The items referred to are -
- (a) artwork,
 - (b) designs,
 - (c) development services,
 - (d) engineering work or services, and
 - (e) plans or drawings.

(4) Paragraph (3) applies to an item even if it is not intended to be used by the buyer in the processing, use or disposal of the goods.

(5) Where goods are transported by air, the cost of the air transport is the percentage of that cost as set out in the document issued by HMRC entitled, "Air Transport Costs to be included in the customs value", as from time to time amended or re-issued (with or without modification).

Method 6 valuation.

18. "Method 6 valuation" means the valuation of goods liable to import duty which is the value determined by applying -

- (a) such of the elements of valuation used in any other method of valuation in this chapter, and
- (b) the principles for the valuation of goods adopted by the World Trade Organisation in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994,

as are reasonable to apply in order to determine the value of the goods liable to import duty immediately before they are released for home use.

Chapter 5

Comparable, identical and similar goods and related persons

Comparable, identical and similar goods.

19. (1) In these Regulations -

"comparable goods" means -

- (a) goods which are identical to the goods liable to import duty, or
- (b) where there are no such identical goods, similar goods,

"identical goods" means those goods which are -

- (a) identical in all relevant characteristics to the goods liable to import duty on import, and
- (b) produced in the same country or territory as those goods liable to import duty,

"similar goods" means goods which in comparison with the goods liable to import duty -

- (a) have similar characteristics and contain similar materials, and
- (b) perform the same or a similar function and are regarded as commercially interchangeable.

(2) The Chief Officer of Customs and Excise may publish a notice specifying -

- (a) generally or in relation to particular goods the matters to be taken into account in determining whether or not goods are similar to each other, or

- (b) those goods which are similar to other goods.

Related persons.

20. (1) Persons A and B are related persons for the purposes of this Part in the following cases -

- (a) where B is a body corporate, A is an officer of B,
- (b) A and B are partners in the same business,
- (c) A is an employee of B,
- (d) the same person controls a business carried on by A and a business carried on by B,
- (e) A controls a business carried on by B,
- (f) A and B jointly control the business of another person,
or
- (g) A is a member of the same family as B.

(2) For the purposes of paragraph (1) -

- (a) a person controls a business carried on by another person where the latter is accustomed to conduct the business in accordance with the directions of the former,
- (b) a person also controls a business carried on by another person where the control is exercised through a third person who acts on that person's direction,

(c) where a business is carried on by a company, a person controls that business where that person holds 5% or more of the voting rights in the company, and

(d) a business referred to is not limited to a business involved in the importation of the goods liable to import duty.

(3) For the purposes of paragraph (1)(g), "A is a member of the same family as B" where a relationship exists directly or indirectly between A and B which arises through blood, adoption, marriage, civil partnership or co-habitation.

(4) The Chief Officer of Customs and Excise may publish a notice as to the relationships the Chief Officer of Customs and Excise considers fall within paragraph (3).

Chapter 7

Miscellaneous

Interpretation.

21. (1) In these Regulations -

"**the 90 day period**" means the period of up to 90 days ending immediately before the date on which the goods liable to import duty are released for home use but that period does not include any period which is prior to the date on which the goods liable to import duty were imported into the Customs Territory,

"**the Arrangement**" means the Arrangement set out in the Schedule to the Crown Dependencies Customs Union (Guernsey) (EU

Exit) Order 2018^c,

"**buying commission**" means a commission paid by a buyer of goods to an agent of the buyer in respect of services provided by the agent to the buyer to enable the buyer to import goods liable to import duty,

"**comparable goods**" has the meaning given by regulation 19(1),

"**Customs Territory**" means the territory of the customs union between the United Kingdom, the Bailiwick, Jersey and the Isle of Man established by the Agreement,

"**finance interest**" and "**relevant finance agreement**" have the meaning given in regulation 9,

"**full value**" means the total amount which would be payable in an arm's length transaction for, or in connection with the importation of, goods,

"**HMRC**" means Her Majesty's Revenue & Customs,

"**home use**" has the meaning given in section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^d,

"**identical goods**" has the meaning given by regulation 19(1),

^c UK S.I. 2019 No. 254.

^d Ordres en Conseil Vol. XXIII, p. 573; as amended by Order in Council No. VI of 2019. There are other amendments not relevant to these Regulations.

"**Method**" means a method of valuation set out in chapter 4 of this Part, and "Method N valuation", where N is a whole number between 1 and 6, is a Method so numbered,

"**related persons**" has the meaning given by regulation 20,

"**similar goods**" has the meaning given by regulation 19(1),

"**special customs procedure**" has the meaning given in section 15(1C) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, and

"**specified matters**" has the meaning given by regulation 1(6) in respect of items to be included as elements of a transaction value and by regulation 1(7) in respect of items to be excluded as elements of a transaction value.

(2) In chapters 1 to 4 of these Regulations in relation to a transaction value of goods, "**seller**" means the person who in the transaction sells the goods for export to the Bailiwick of Guernsey and "**buyer**" means the person who in the transaction buys the goods from the seller.

Time of importation of goods imported by pipe-line.

22. For the avoidance of doubt, goods imported by means of a pipe-line shall be treated as imported at the time when they are brought within the limits of a port or otherwise when they enter the Bailiwick.

Citation and commencement.

23. These Regulations may be cited as the Methods of Valuation (Import Duty) Regulations, 2019 and shall come into force on exit day.

Dated this 1st day of April, 2019



M. M. LOWE

President of the Committee for Home Affairs

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the valuation of goods for the purposes of import duty. Six Methods of valuation are set out in order to calculate the "transaction value", whilst taking account of different specified matters such as the nature of the goods and how they have been transported. These Regulations also provide that sterling is the only currency to be used when calculating the transaction value.

These Regulations come into force on exit day, which is 12th April 2019 as appointed by the European Union (Exit Day and Designated Day) (Brexit) (Bailiwick of Guernsey) Regulations, 2019.

