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978-1-107-00084-1 - A Handbook on the WTO Customs Valuation Agreement

Sheri Rosenow and Brian J. O'Shea

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## **A Handbook on the WTO Customs Valuation Agreement**

This guide to the WTO Customs Valuation Agreement is based on the authors' experiences of teaching its finer points to customs officials and policy-makers around the world. Covering the methods of valuation and the provisions on enforcement, implementation and dispute settlement, the authors give practical examples, explain interpretative decisions of national and international customs bodies, and analyze the history of its negotiation. Written as a learning tool, it helps both new and experienced policy-makers, customs officials, importers and exporters to gain a deeper understanding of the Agreement's function and aims.

SHERI ROSENOW and BRIAN O'SHEA are attorneys who have specialized in customs and international trade law for twenty years.

SHERI ROSENOW is a senior counsellor for the WTO, where she specializes in customs valuation, trade facilitation and other customs-related issues. On behalf of the WTO, she has trained government officials and members of the trade community throughout the world.

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## FOREWORD

This book on customs valuation is a welcome addition to the WTO Secretariat/Cambridge University Press's Handbook series. The Customs Valuation Agreement is the common system for determining the value of imports for duty assessment purposes and is therefore important to the everyday work of importers, customs officials, and others involved in international trade. However, because the Agreement is technical in nature and trade transactions can be complex, guidance and explanation of the terms of the Agreement will be useful to support its proper implementation.

Customs valuation has long been subject to GATT disciplines. As the authors note, governments recognized early on that negotiated tariff reductions could be subverted if the amount of duty collected can be manipulated through the way goods are valued. In addition, it was understood that positive trade facilitative advantages can result through adoption of a common valuation system setting out fair and transparent rules.

The WTO valuation system, which is based on the 1979 Tokyo Round GATT code, recently marked its thirtieth anniversary, an opportune time to consider whether its purposes have been realized. Experience over that time has shown that the drafters of the Agreement were successful in creating a valuation system that is comprehensive and sufficiently flexible to adapt to the changes in the way business is conducted. On the other hand this flexible structure necessarily allows for diverging interpretations of how the provisions are implemented.

The impetus for this book arose out of the authors' work with customs and other officials of WTO Member governments around the world. As a result of this work they realized that there was a need for a resource that would provide a simple, straightforward explanation on the meaning and intent of the provisions of the Agreement as well as insight on how the terms of the Agreement have been interpreted or extended by different countries, dispute settlement panels and the valuation committees.

In addition, this book, as well as the other books in the Handbook series, support the WTO Secretariat's efforts to assist Member countries in their efforts to build capacity, implement obligations and realize the benefits of WTO Membership.

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*Foreword*

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I am pleased to offer this book to the trade community. I hope that the reader will find it to be a useful resource.

Pascal Lamy  
*Director-General*  
*World Trade Organization*

## PREFACE

The purpose of this book is to provide a detailed explanation of the history, principles, and legal terms of the WTO Customs Valuation Agreement and its associated legal texts, such as interpretative decisions of the WTO Committee on Customs Valuation. It is intended to instruct and serve as a reference for those who are new to, or have limited familiarity with, the Agreement. Expert users also may find it useful for reference purposes.

We have included test questions in this book to demonstrate the application of the Agreement to specific import scenarios. Our proposed answers to the questions, which can be found at the end of each chapter, are based on WTO and World Customs Organization (WCO) interpretative materials, as well as on rulings of various national customs administrations.

Included in the Appendices is a selection of the most important WTO valuation legal texts. Further information about the WTO Customs Valuation Agreement, as well as current and historical valuation documents issued by the WTO and GATT bodies, can be accessed via the WTO website at [www.wto.org](http://www.wto.org). In Appendix 8, you will find information about how to navigate the WTO website to reach customs valuation documents. This information also includes an explanation of the symbols that are used for classification of official WTO documents.

Sheri Rosenow  
Brian J. O'Shea

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The black and white photographs of identical and similar goods that appear in section 3.1 are by Peter Rittling ([www.peter-rittling.com](http://www.peter-rittling.com)).

## DISCLAIMER

Whilst every effort has been made to ensure accuracy, the text and any errors that it may contain are the full responsibility of the authors. Moreover, this Handbook on the WTO Customs Valuation Agreement cannot be taken as an official legal interpretation of the Agreement, as only the WTO members, acting collectively, have the legal authority to provide authoritative legal interpretations of WTO legal instruments.

ACRONYMS AND ABBREVIATIONS

Where used in this book, acronyms and abbreviations have the following meaning:

BDV	Brussels Definition of Value
CCC	Customs Co-operation Council (official name of the WCO)
c. i. f.	Cost Insurance & Freight (Incoterm)
f. o. b.	Free on Board (Incoterm)
GATT	General Agreement on Tariffs and Trade 1994
Interpretative Note	Annex I to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
Kyoto Convention	International Convention on the Simplification and Harmonization of Customs Procedures (as amended)
Technical Committee	Technical Committee on Customs Valuation, established under the auspices of the Customs Co-operation Council (WCO)
WCO	World Customs Organization
WCO Compendium	World Customs Organization, Customs Valuation: WTO Agreement and Texts of the Technical Committee on Customs Valuation (2d ed. 1997)
WTO	World Trade Organization
WTO Agreement	Marrakesh Agreement Establishing the World Trade Organization
WTO Customs Valuation Agreement or the Agreement	Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994