



# Implementation of the WTO Valuation Agreement in Nepal: An Ex-ante Impact Assessment

---

Presented by  
Pushpa Raj Rajkarnikar, Ph. D.  
Executive Director,  
Institute for Policy Research and Development (IPRAD)

**UNDP/ESCAP ARTNeT Trade Facilitation Research Team Meeting,  
15 March 2006, Bangkok, Thailand**

# Composition of the Research Team

---

Dr. Pushpa Raj Rajkarnikar

Team Leader and Principal Researcher

Dilli Prakash Ghimire

Principal Researcher

Dilli Ram Upreti

Research Associate

Dev Lal Kishi

Research Associate

---

# Rationale of Study

---

- Nepal became a member of WTO in 2004.
  - It has committed to implement the WTO customs valuation by 1<sup>st</sup> January 2007.
  - However, its likely impact on trade, price and revenue is yet to be assessed.
  - Likely problems to be encountered in the course of implementing the WTO Valuation Agreement are yet to be identified.
  - The study is necessitated by above mentioned information/study gap.
-

# Objectives

---

- To identify problems of implementing the WTO Valuation Agreement
  - To assess impact of implementation of WTO Valuation on trade, price and revenue
  - To make policy recommendations for successful implementation of WTO Valuation Agreement
-

# Methodology

---

- Literature Review: WTO Valuation Agreement, Customs Act, Customs Regulations, Financial Ordinances and Reports of Previous Studies.
  - Discussion with Selected Customs Officials.
  - Estimates of over/under valuation of imports through valuation of selected import items by applying the method of deductive valuation and / or examination of selected cases of appeal.
  - Impact of change in valuation systems on trade and thereby on revenue will be estimated using price elasticity of consumption
-

# Literature Review

---

- Main Literatures Reviewed
  - King, J. et.al. (2003) Next Steps in Tax Reform, Preliminary Report, Nepal, IMF.
  - Richard, F. (2003) South Asia FDI Roundtable, FIAS.
  - Walsh, T. J. (2003) Customs Valuation, Changing Customs, IMF (edited by Michael Keen)
  - Ghimire et.al. (2005) the legislative Review Study on Customs Policies of HMG, Nepal.
  - Rajkarnikar, P. R. et.al (2005) The Need for and the Cost of Selected Trade Facilitation Measures Relevant to the WTO Trade Facilitation Negotiation: A Case Study of Nepal
-

# Contd.

---

- WTO Working Party on Accession, 2004, Nepal Gazette.
  - Customs Act, 1962.
  - Financial Ordinances.
  - Different Publications of the Department of Customs.
-

# Tentative Outline of the Study

---

- Introduction
  - Review of the literature
  - Custom valuation in Nepal
  - Past practices
  - Current policy and practices
  - Current problem, issues
  - Impact of change in current valuation practices on trade, prices and revenue
  - Policy recommendation, conclusions and lessons learned
-



# Past Practices

---

- Valuation system was not uniform and integrated before 1950.
  - Trade treaty with India in 1950, enhanced use of advalorem duties.
  - Customs Act, 1962 systematized customs
  - Establishment of set value system.
-

# Current Policy and Practices

---

- Nepal has adopted a policy of implementing WTO valuation provisions gradually and progressively. Major steps taken in this regards are:
    - Amendment of Customs Act, 1962 in 1997
    - Recognition of transaction value
    - A Three Year's Customs Reform Action Plan being implemented since 2003/04
    - Subsequent Financial Act and ordinances made several provisions towards making the system compatible to WTO Valuation Agreement.
-

# Main Provisions Include

---

- Price;
  - Definition of transaction;
  - Verification of transaction price based on prices of identical or similar goods, computed value;
  - Binding to follow the main principle of WTO Customs Valuation;
  - Elaboration of valuation method; and
  - Sequence and process of valuation.
-

# Current Practice

---

- Current system of customs valuation can be termed as hybrid of WTO valuation system and Brussels Definition of valuation. Main features of current practice are:
    - Valuation is done on the basis of transaction value.
    - In case transaction value can not be determined, following sequence will be followed to fix value of imported goods.
      - Transaction price of previously imported identical goods.
      - Transaction price of previously imported similar goods.
      - Price determined by applying deductive value method or computed value method as chosen by the importer.
      - Value determined by applying fallback method.
-

# Contd.

---

- Importer has right to appeal. However decision of Director General of Department of Customs is final.
  - There is provision of provisional clearance of goods with surety/deposit.
  - Customs has to follow fundamental principles of the WTO.
-

# Issues

---

- Following are the main issues to be addressed in the context of implementation of WTO Valuation Agreement
    - Legal issues.
    - Issue of adequate data base
    - Issue of necessary preparation
    - Issue of post clearance audit system
    - Issue of informal trade with India due to open border
-

# Current Problems

---

- Weak Customs Administration;
  - Lack of Value Information Database;
  - Lack of Train Manpower on Customs Valuation; and
  - Inadequate Legal Provision.
-

# Problems Associated with Implementation of ACV

<b>Existing Provisions and Practices</b>	<b>Problems Associated</b>
No detail definition of valuation terms in Customs Act and Finance Ordinance	Absence of definition may mislead interpretation and provide discretionary power to Customs Officials
Customs Act and Finance Ordinance is silent in the issue of price adjustment	Lack of transparent provision of price adjustment may hamper uniformity in customs valuation
Value declaration forms are not fully compatible with ACV	This will make task of valuation decision difficult
No provisions of conditions for use of transaction value method	It may lead to confusion to the decision makers



# Contd.

<b>Existing Provisions and Practices</b>	<b>Problems Associated</b>
No details rules	Probability of revenue loss
No specific basis of valuation control	It leaves gray areas to revenue loss
No conditions are stated for the application of transaction value of identical goods or similar goods	It leaves ground for use of discretionary power
No basic principles of DVM and CVM are stated in the laws	It makes use of DVM and CVM complicated
Basic principles of the application of fallback method are not available in the laws	This may encourage to use discretionary power by customs officials

# Work in Progress

---

- Introduction
  - Literature review
  - Preliminary draft of following sector of the report
    - Past practice
    - Current policy and practices
    - Current problem
    - Issues
    - Problems associated with Implementation of ACV
-



Thank You