



**World Customs
Organization**

Transaction Value

Joseph Ouedraogo

**Technical Attaché to the World Customs Organization
Accredited expert trainer in Customs valuation
joseph.ouedraogo@wcoomd.org**

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TRANSACTION VALUE

NB: This topic is also covered in the customs valuation course on CLiKC!

OVERALL OBJECTIVE



At the end of this session, participants will have an overview of the WTO Agreement on Customs Valuation and, more particularly, the transaction value method defined in Article 1 of the Agreement and Article 8 adjustments.

APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



At the end of this training session, participants will be able to:

SPECIFIC OBJECTIVES

1. Understand the term “transaction value”;
2. Identify the characteristics of a sale via the time element and the place element;
3. Understand the concepts of “**sale for export to the country of importation**” and the “**price actually paid or payable**” (PAPP).
4. Know the adjustments to the PAPP

APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



Contents

1. Introduction
2. Definition of the “transaction value”
3. Characteristics of the concept of “sale”
4. Sale for export
5. Concept of the “price actually paid or payable”
6. Adjustments to the PPAP

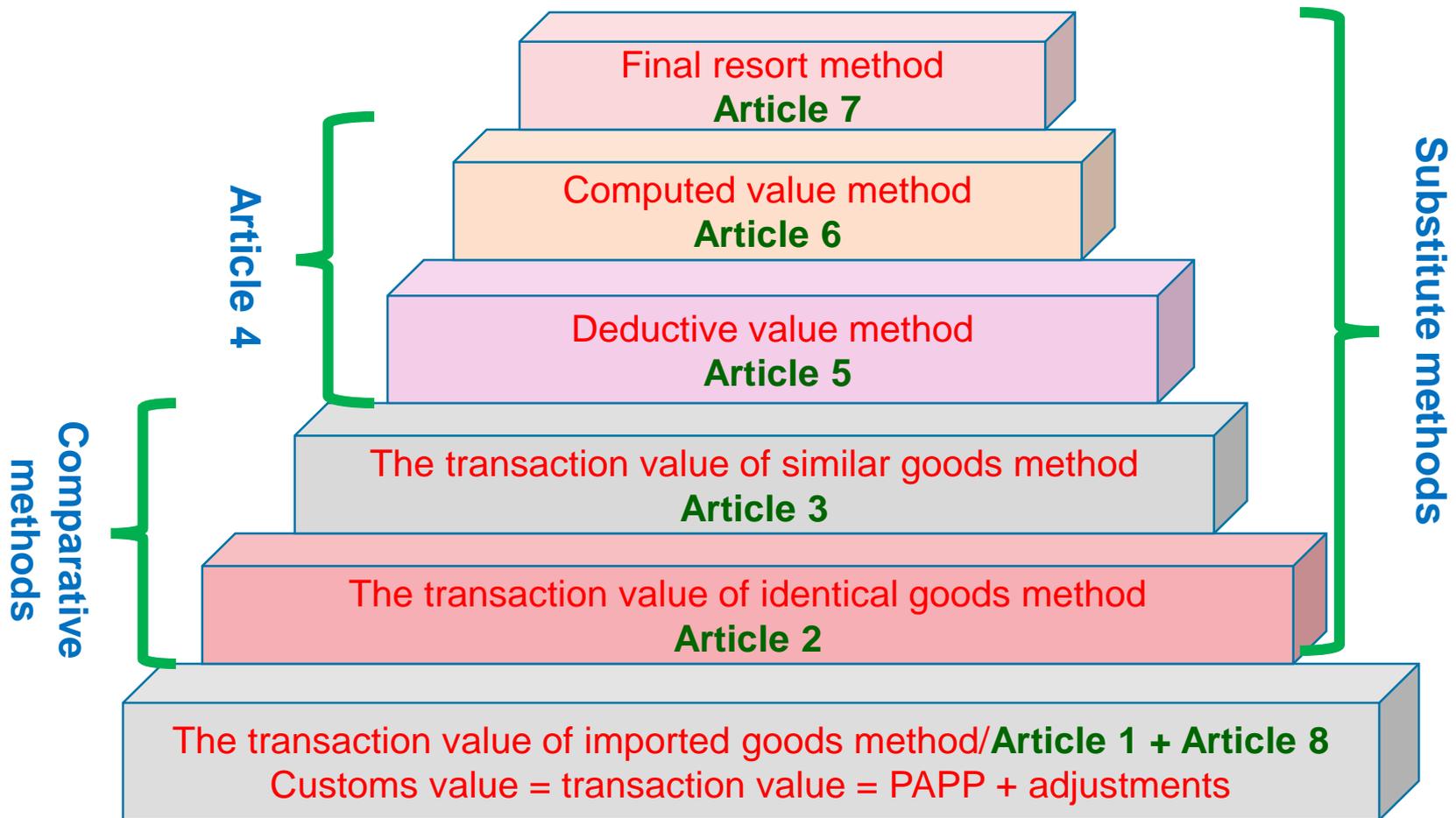
APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



1. INTRODUCTION

- Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT) 1994 (official title) or WTO Agreement on Customs Valuation;
- Hierarchy of valuation methods;
- Transaction value: primary basis for determination of the Customs value/Article 1 read together with Article 8 (adjustments);
- The Agreement allows for alternative methods (Articles 2 to 7) to be applied where there is **no** transaction value or it has been **rejected**.

1. INTRODUCTION



1. How is the transaction value defined under Article 1?

APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



2. DEFINITION OF THE “TRANSACTION VALUE” (1)

➤ **Customs value = transaction value, i.e.:**

- *THE PRICE ACTUALLY PAID OR PAYABLE (PAPP)*
- *WHEN THE GOODS ARE SOLD FOR EXPORT TO THE COUNTRY OF IMPORTATION*
- *ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 8*

Customs value = transaction value = PAPP + Article 8 adjustments

3. TRANSACTION VALUE OF THE IMPORTED GOODS METHOD: ARTICLE 1



2. DEFINITION OF THE “TRANSACTION VALUE” (2)

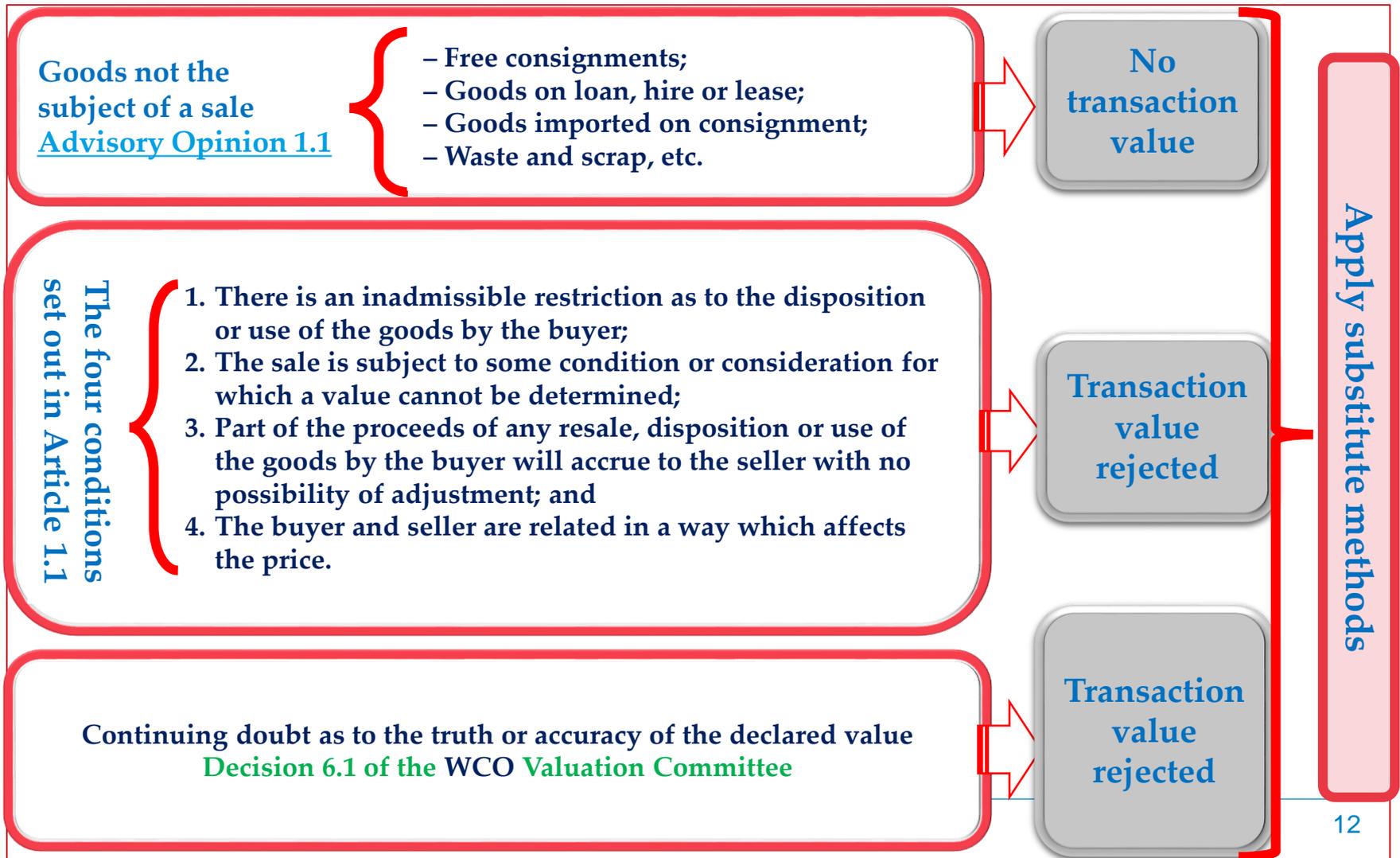
➤ The price actually paid or payable includes:

- *All payments (total payment) actually made or to be made;*
- *for the imported goods;*
- *As a condition of sale of the imported goods;*
- *By the buyer to the seller (direct payment);*
- *Or by the buyer to a third party to satisfy an obligation of the seller (indirect payment).*

(Interpretative Note to Article 1 and paragraph 7 of Annex III)

What are the conditions for the application of Article 1?

2. DEFINITION OF THE “TRANSACTION VALUE” CONDITIONS OF APPLICATION OF ARTICLE 1



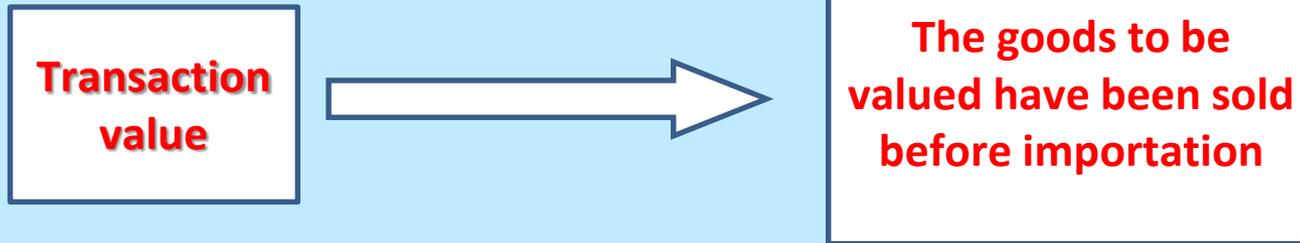
How can a sale be defined?

APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



3. CHARACTERISTICS OF THE CONCEPT OF “SALE”

3.1. DEFINITION



- There is no definition of the term “sale” in the Agreement
- However, a sale requires there to be:
 - two parties
 - an agreement on a good/goods (contract)
 - an agreed price and other considerations (contract)
 - transfer of ownership

APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



3. CHARACTERISTICS OF THE CONCEPT OF "SALE"

3.2. GOODS NOT THE SUBJECT OF A SALE

- free consignments
- goods imported on consignment
- goods imported by intermediaries who do not purchase them
- goods imported by branches
- goods hired or leased
- goods on loan
- waste or scrap intended for destruction
- goods subject to barter or cleared transactions, etc.

(Advisory Opinion 1.1)

APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



3. CHARACTERISTICS OF THE CONCEPT OF “SALE”

3.3. PLACE ELEMENT

The Agreement contains no provisions regarding the geographical location of the seller and buyer (**Advisory Opinion 14.1**). The following situations may occur:

	Country of exportation	Country of importation	Third country
Situation 1	Seller	Buyer	–
Situation 2	Seller and buyer	–	–
Situation 3	–	Seller and buyer	–
Situation 3	–	–	Seller and buyer

APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



3. CHARACTERISTICS OF THE CONCEPT OF “SALE”

3.4. TIME ELEMENT (1) (Explanatory Note 1.1)

The object of the valuation method set out in Article 1 of the Agreement is to take the **actual price** of the sale which has led to the importation as the basis for determining the Customs value:

- regardless of the time at which the transaction took place,
- or of currency fluctuations which might occur after that date.

The price stated in the contract must be applied, unless there is a **price revision clause**. (Commentary 4.1)

APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



3. CHARACTERISTICS OF THE CONCEPT OF "SALE"

3.4. TIME ELEMENT (2)

PRICE REVISION CLAUSES (1)

- The price is set provisionally;
- The transaction value must be based on the total, final price paid or payable as stipulated in the contract.

APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



3. CHARACTERISTICS OF THE CONCEPT OF “SALE”

3.4. TIME ELEMENT (3)

PRICE REVISION CLAUSES (2) (Commentary 4.1)

TWO POSSIBLE CASES MAY ARISE:

1. Price revision clauses have come into full effect at the time of valuation: PAPP is known.
2. Otherwise: the transaction value can always be determined under Article 13 of the Agreement, which gives the option of delaying the final determination of the value.

APPLICATION OF THE TRANSACTION VALUE: ARTICLE 1



4. SALE FOR EXPORT

- The sale does not **need** to take place in a specific country of exportation.

Transactions involving an actual transfer of goods internationally may be used to value goods according to the Customs value method.

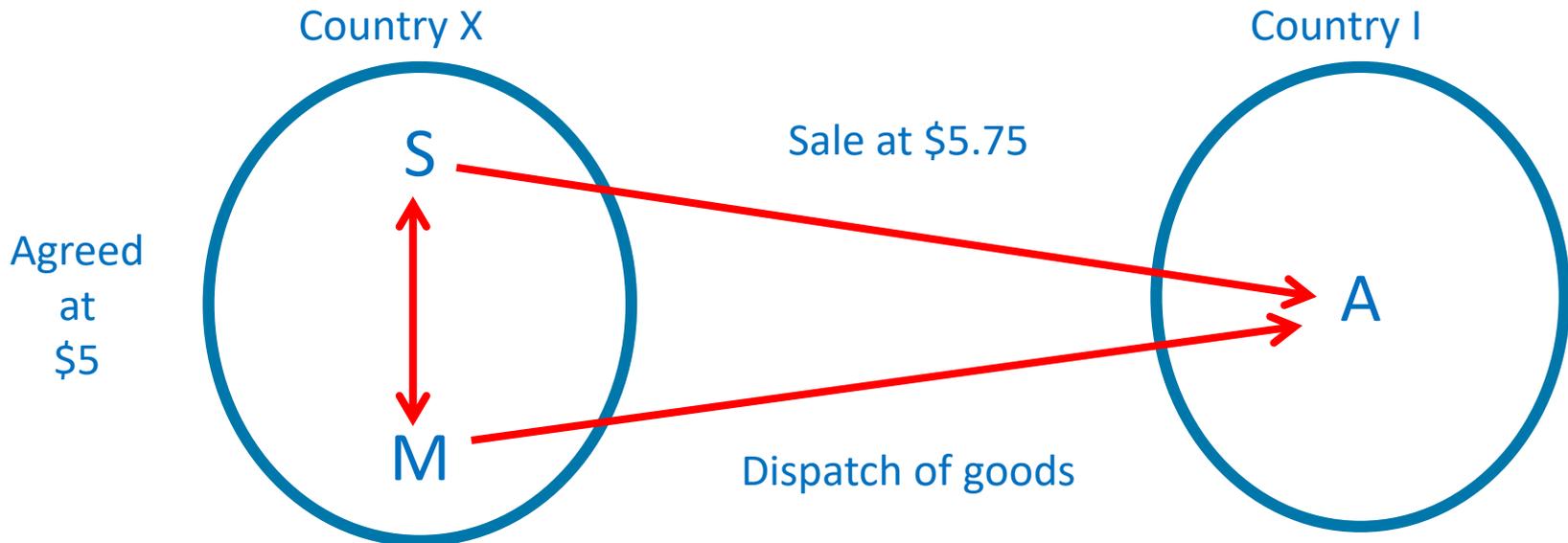
4. SALE FOR EXPORT

Advisory Opinion 14.1



Example of illustration 1

Seller SHAN established in the country of exportation signs a contract for the sale of electrical supplies with importer VENTOUT at a unit price of \$5.75. SHAN reaches an agreement with manufacturer M, also established in the country of exportation, for the manufacture of the goods. Manufacturer M dispatches the goods on SHAN's behalf to VENTOUT in the country of importation. The unit sale price from M to S is \$5.

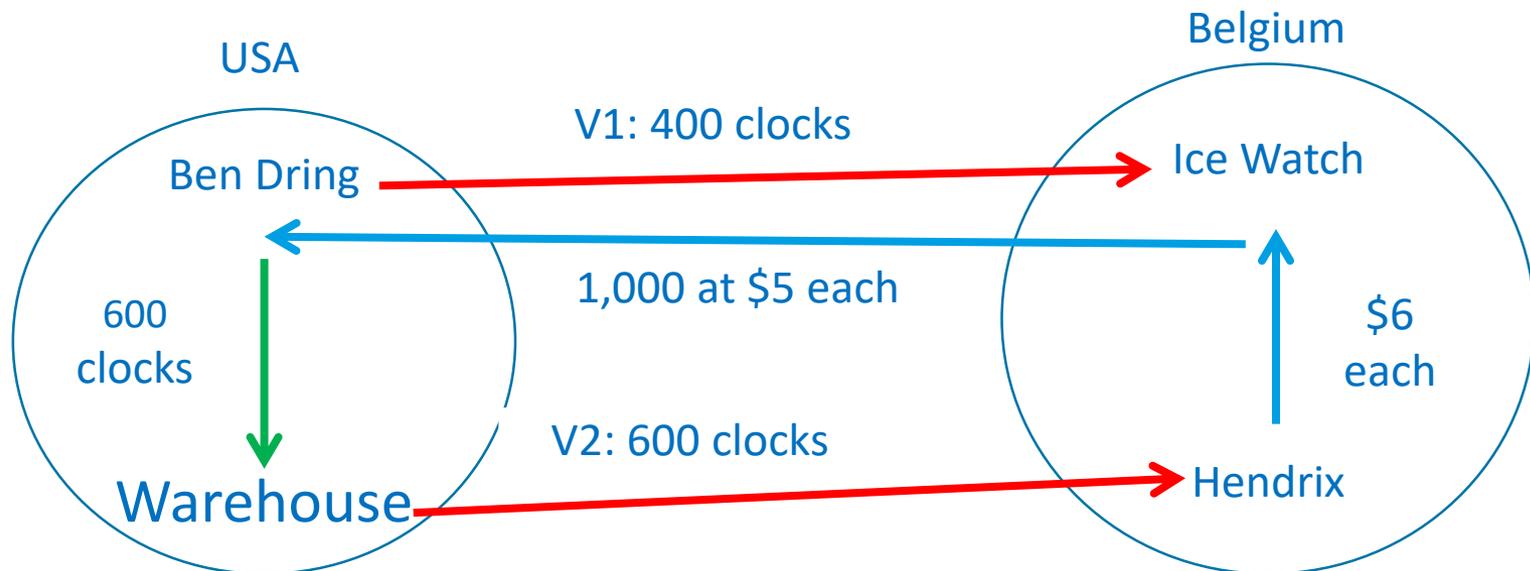


4. SALE FOR EXPORT



Example of illustration 2

Buyer Ice Watch, established in Belgium, buys 1,000 clocks from seller Ben Dring in the United States at a unit price of \$5. Ice Watch instructs seller Ben Dring to send it 400 clocks for its own use in Belgium and 600 clocks to a warehouse in the United States. Ice Watch then decides to send the 600 remaining clocks to buyer Hendrix, also located in Belgium, for \$6 per unit. Ice Watch then instructs its warehouse in the United States to dispatch the goods directly to Hendrix.

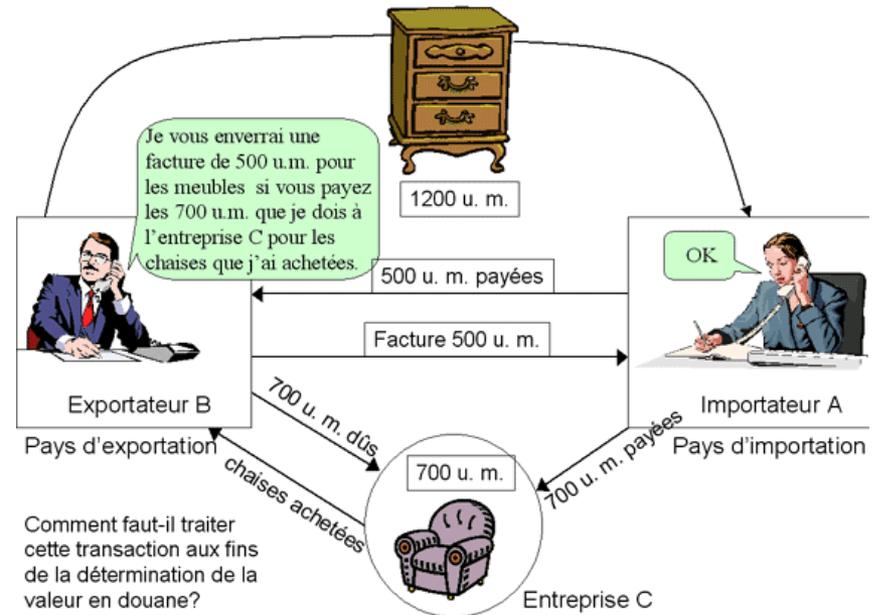


5. CONCEPT OF THE “PRICE ACTUALLY PAID OR PAYABLE”



The “price actually paid or payable” is...

- ❖ ...the total payment...
- ❖ ...made or to be made...
- ❖ ...by the seller to the buyer...
- ❖ ...or to the latter’s advantage...
- ❖ ...for the goods imported.



5. CONCEPT OF THE “PRICE ACTUALLY PAID OR PAYABLE”

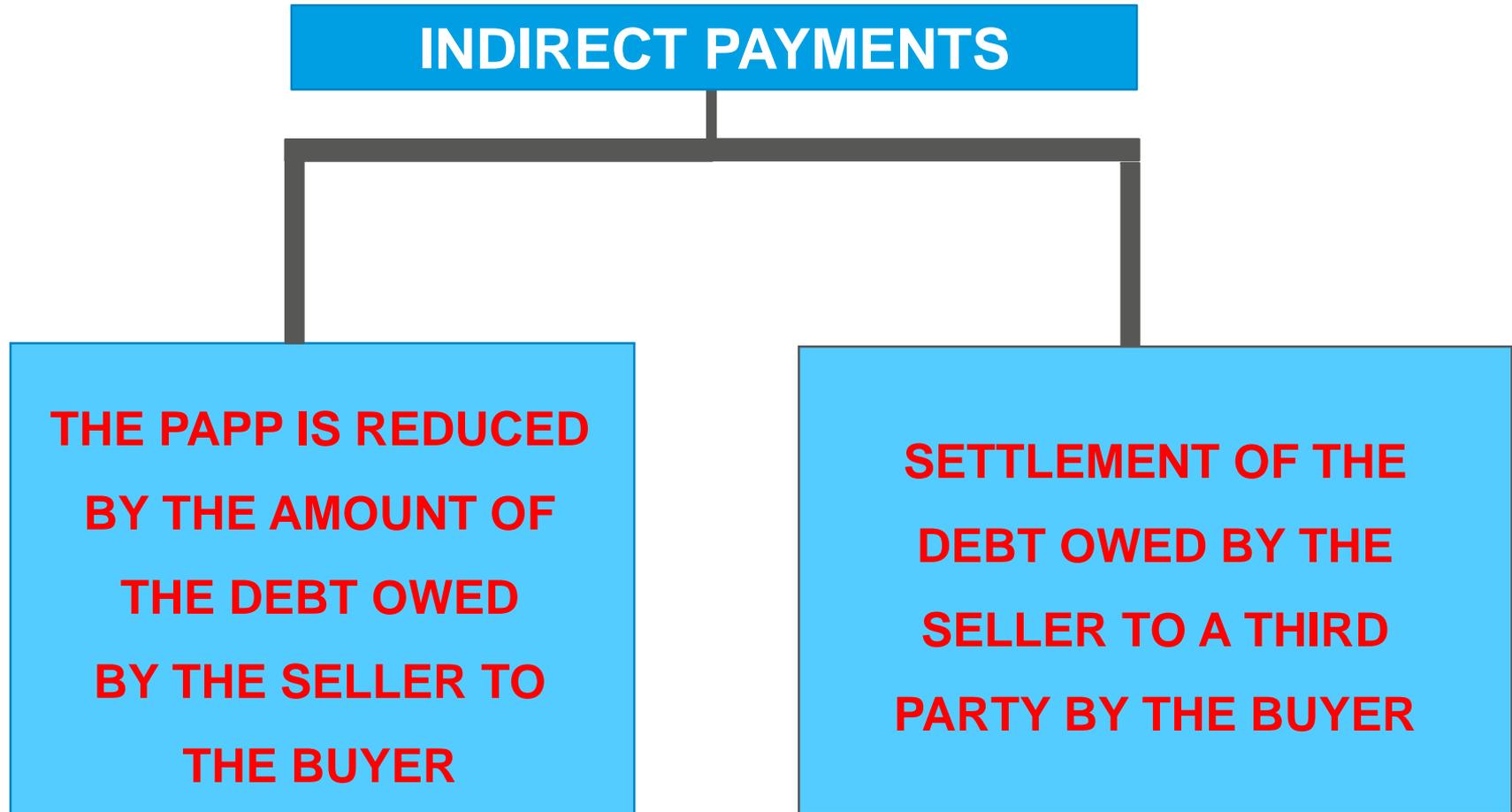


- The PAPP includes all payments actually made or to be made by the buyer to the seller, or to the seller’s advantage (i.e. by the seller to a third party to satisfy an obligation of the seller).
- for the goods imported;
- as a condition of sale of the goods imported



Paragraph 7 of Annex III to the Agreement

5. CONCEPT OF THE “PRICE ACTUALLY PAID OR PAYABLE”



5. CONCEPT OF THE “PRICE ACTUALLY PAID OR PAYABLE”



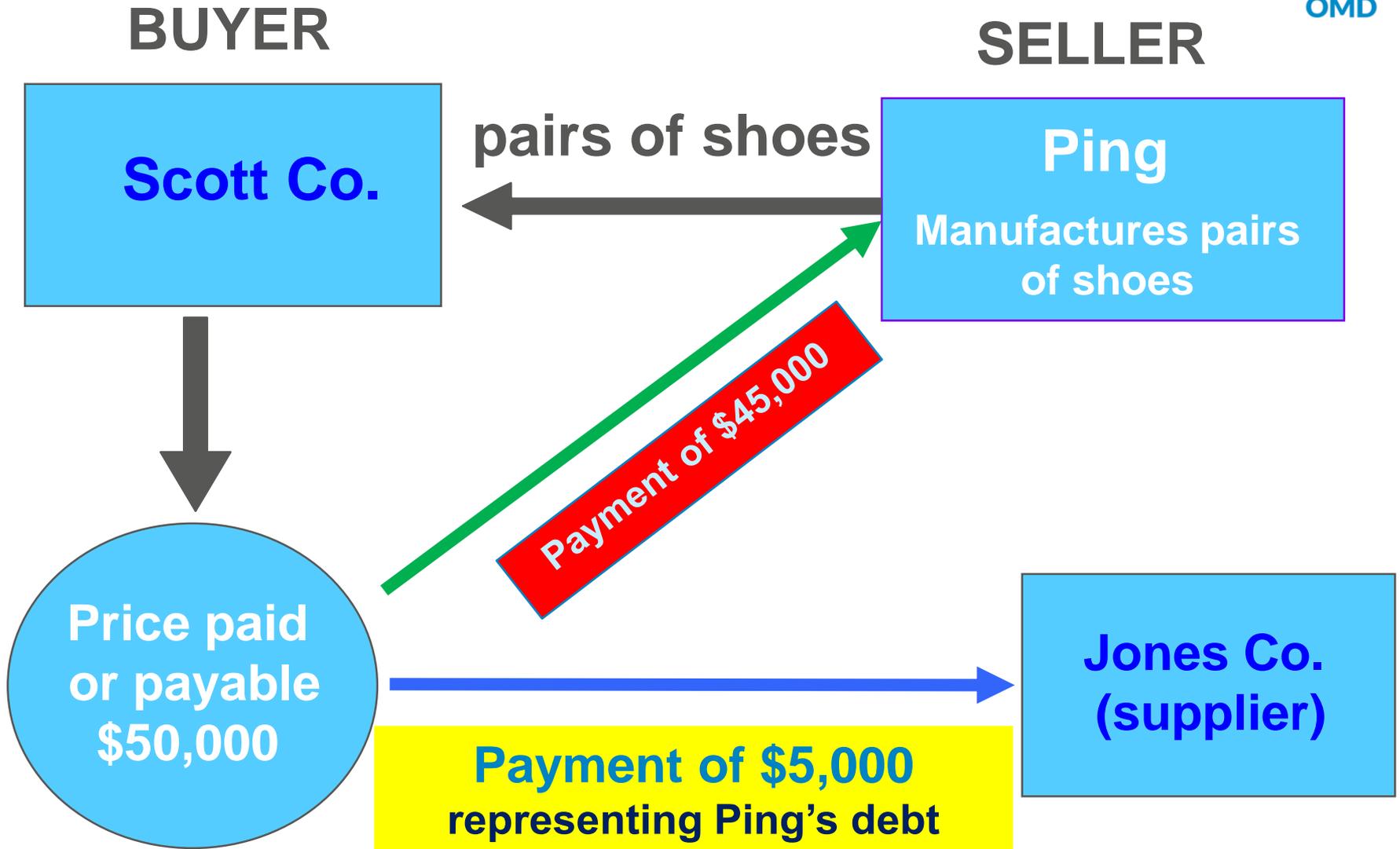
Indirect payments: exercise

On 15 June 2019, the Scott company based in Brussels buys 1,000 pairs of shoes from the manufacturer Ping in Indonesia. The unit price for a pair of shoes is \$50. Scott and Ping are not related within the meaning of the Agreement.

To pay for the transaction, Scott remits \$45,000 to Ping for the 1,000 pairs of shoes, and, on Ping's orders, \$5,000 to the Jones company, to which Ping is in debt for the purchase of soles for the shoes it manufactures.

How would you process this transaction?

INDIRECT PAYMENT



5. CONCEPT OF THE “PRICE ACTUALLY PAID OR PAYABLE”



MEANS OF PAYMENT:

- Not necessarily in money
- Letter of credit or negotiable instruments
- Exchange of goods or services
- Paragraph 1 of the Interpretative Note to Article 1

5. CONCEPT OF THE “PRICE ACTUALLY PAID OR PAYABLE”



THE FOLLOWING ARE NOT PART OF THE PRICE ACTUALLY PAID OR PAYABLE (statutory deductions):

- Activities undertaken by the buyer on the buyer’s own account, other than those referred to in Article 8;
- Costs after importation: for construction, erection, assembly, maintenance or technical assistance;
- The cost of transport after importation;
- Duties and taxes of the country of importation;
- The flow of dividends to the seller that do not relate to the imported goods.

5. CONCEPT OF THE “PRICE ACTUALLY PAID OR PAYABLE”



THE FOLLOWING ARE NOT PART OF THE PAPP:

- Activities undertaken by the buyer on the buyer's own account:
 - Market research;
 - Advertising of the brand or registered trademark;
 - Preparation of the showroom/exhibition hall;
 - Participation in a fair or exhibition;
 - Cost of obtaining a letter of credit;
 - Guarantee costs, etc.

What are the adjustments to the PAPP?

6. Adjustments



- The Customs value of imported goods shall be the transaction value, that is the price actually paid or payable for goods when sold for export to the country of importation adjusted in accordance with the provisions of **Article 8** of the WTO Customs Valuation Agreement

6. Adjustments



Adjustments

- Compulsory adjustments (*Article 8.1*)
 - Commissions & Brokerage (*a*) (*i*)
 - Packing & Containers Costs (*a*) (*ii*)-(*iii*)
 - Assists (*b*)
 - Royalties & License Fees (*c*)
 - Subsequent Proceeds (*d*)

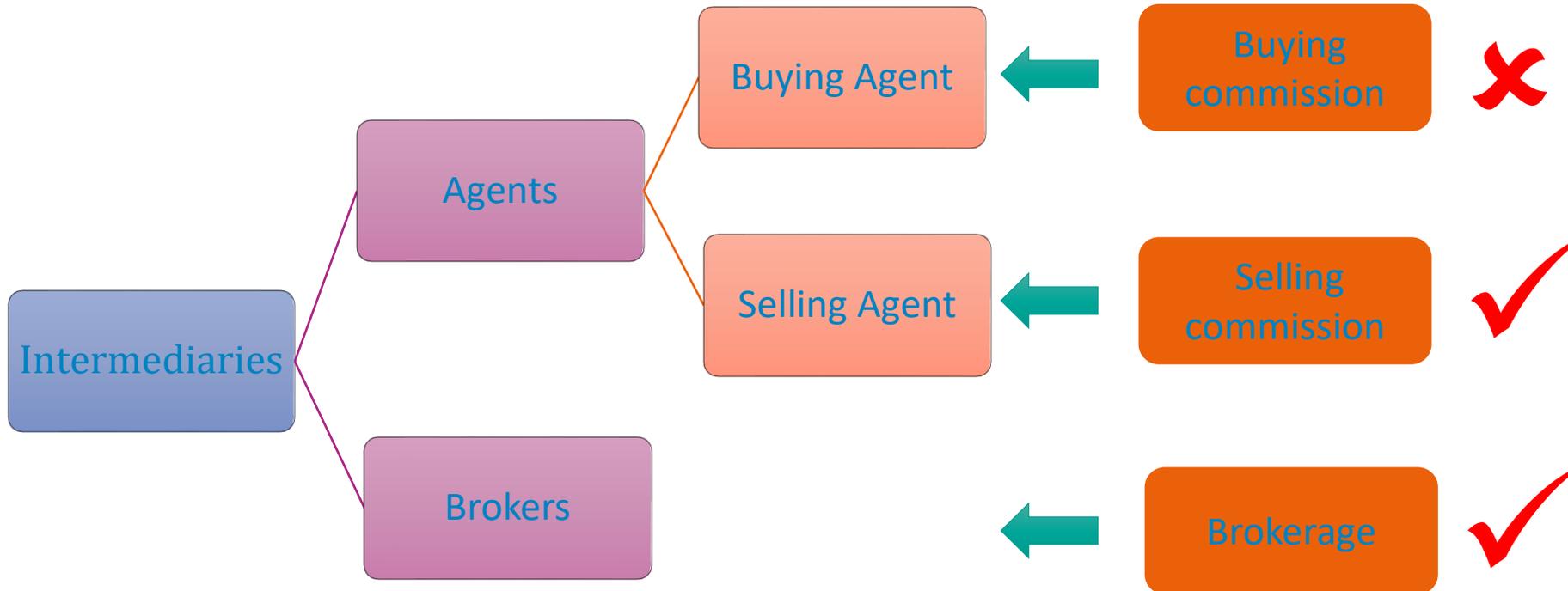
- Optional adjustments (*Article 8.2*)

6. Adjustments



Commissions & Brokerage

Payments made to parties acting as intermediaries in a transaction



6. Adjustments



Packing & Containers Costs

- the cost of containers which are treated as being one with the goods for Customs purposes; (*Article 8.1(a) (ii)*)
- the cost of packing whether for labor or materials (*Article 8.1(a) (iii)*)
 - interior packing boxes or cartons
 - exterior packing boxes or cartons
 - packing materials
 - the labor costs involved in placing the goods in the containers

6. Adjustments



Assists

The value, apportioned as appropriate, of :

- certain goods or services,
- supplied directly or indirectly by the buyer,
- free of charge or at reduced cost
- for use in connection with the production of the imported goods

6. Adjustments



Assists

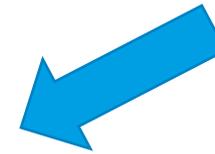
Categories of Assists

- Materials, components and parts incorporated in imported goods
- Tools, dies and moulds used in the production of imported goods
- Materials consumed in production of imported goods
- Engineering, development, artwork, design work and plans and sketches (undertaken elsewhere than in country of importation)

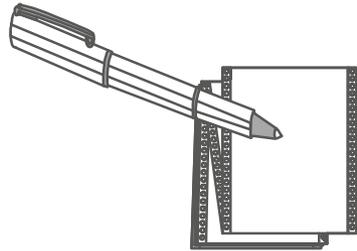
6. Adjustments



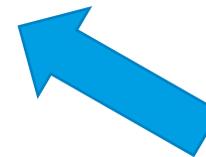
Samples



Buttons



Design Work



Bleach

6. Adjustments



Royalties & Licence Fees

- What are Royalties?

The Collins Dictionary and Thesaurus (1991) defines “royalty” as *“a percentage of the revenue from the sale of a book, performance of a theatrical work, use of a patented invention ... paid to the author, inventor ...”*

- Royalties and licence fees may include, among other things, payments in respect to patents, trademarks and copyrights.

The Interpretative Note to Article 8.1(c)

6. Adjustments



Royalties & License Fees

In determining the Customs value under the provisions of Article 1, there shall be added to the price actually paid or payable for the imported goods :

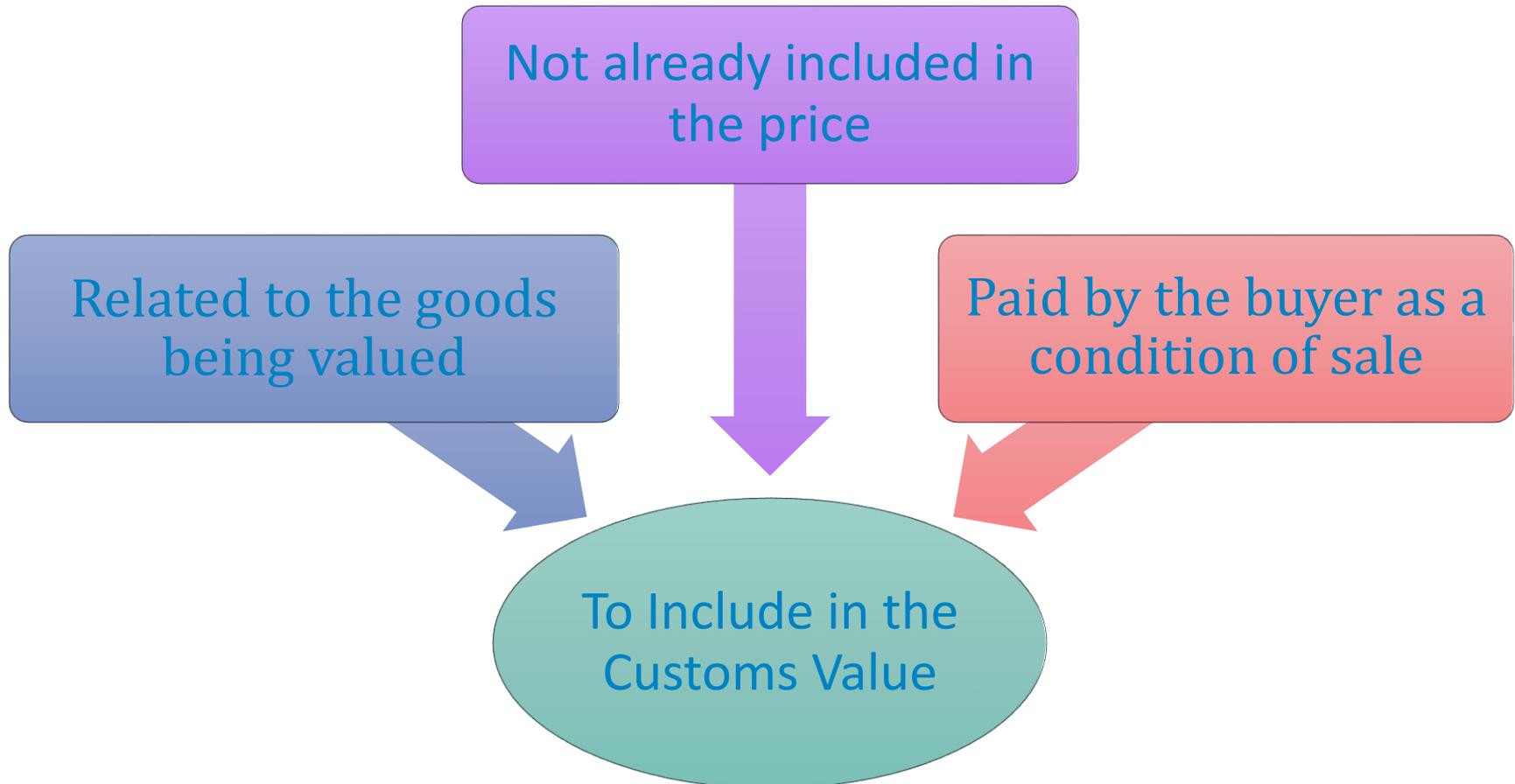
*... royalties and licence fees **related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;***

Article 8.1 (c)

6. Adjustments



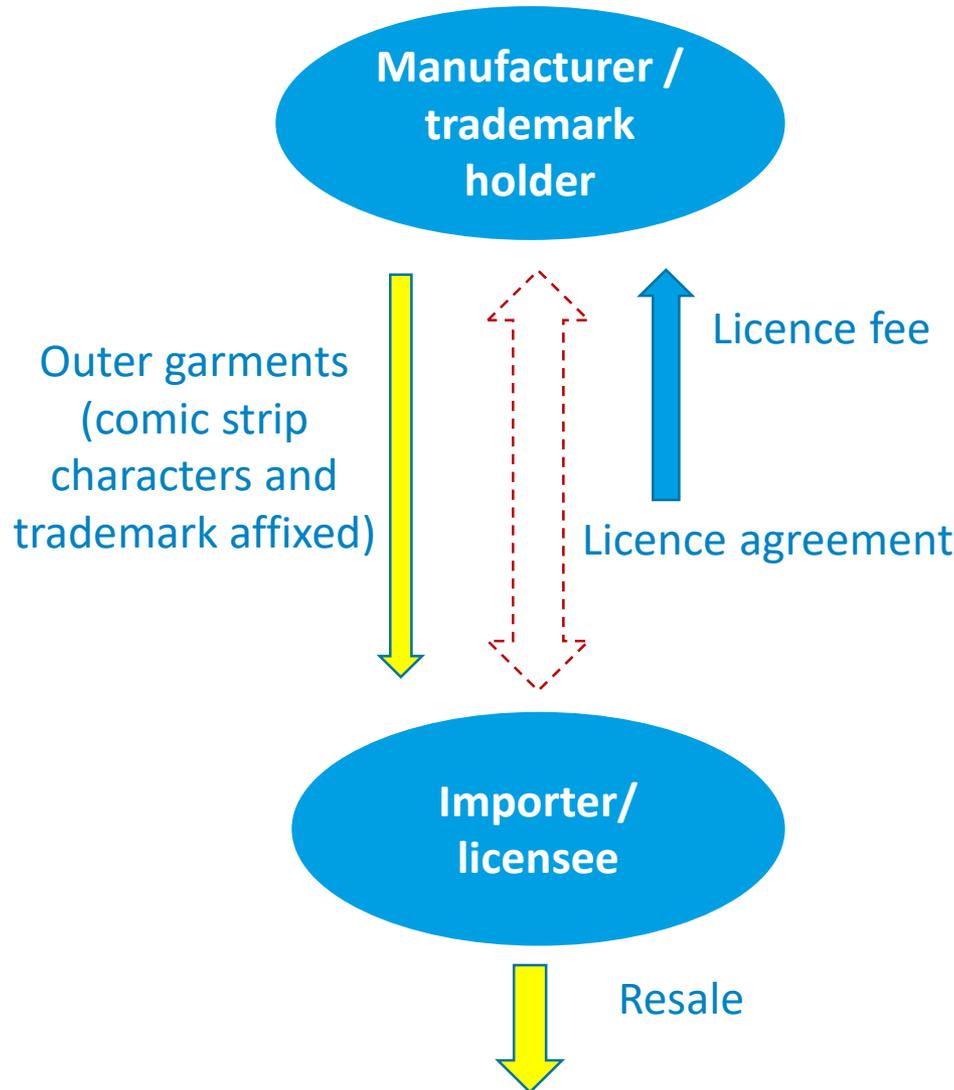
Royalties & License Fees



6. Adjustments



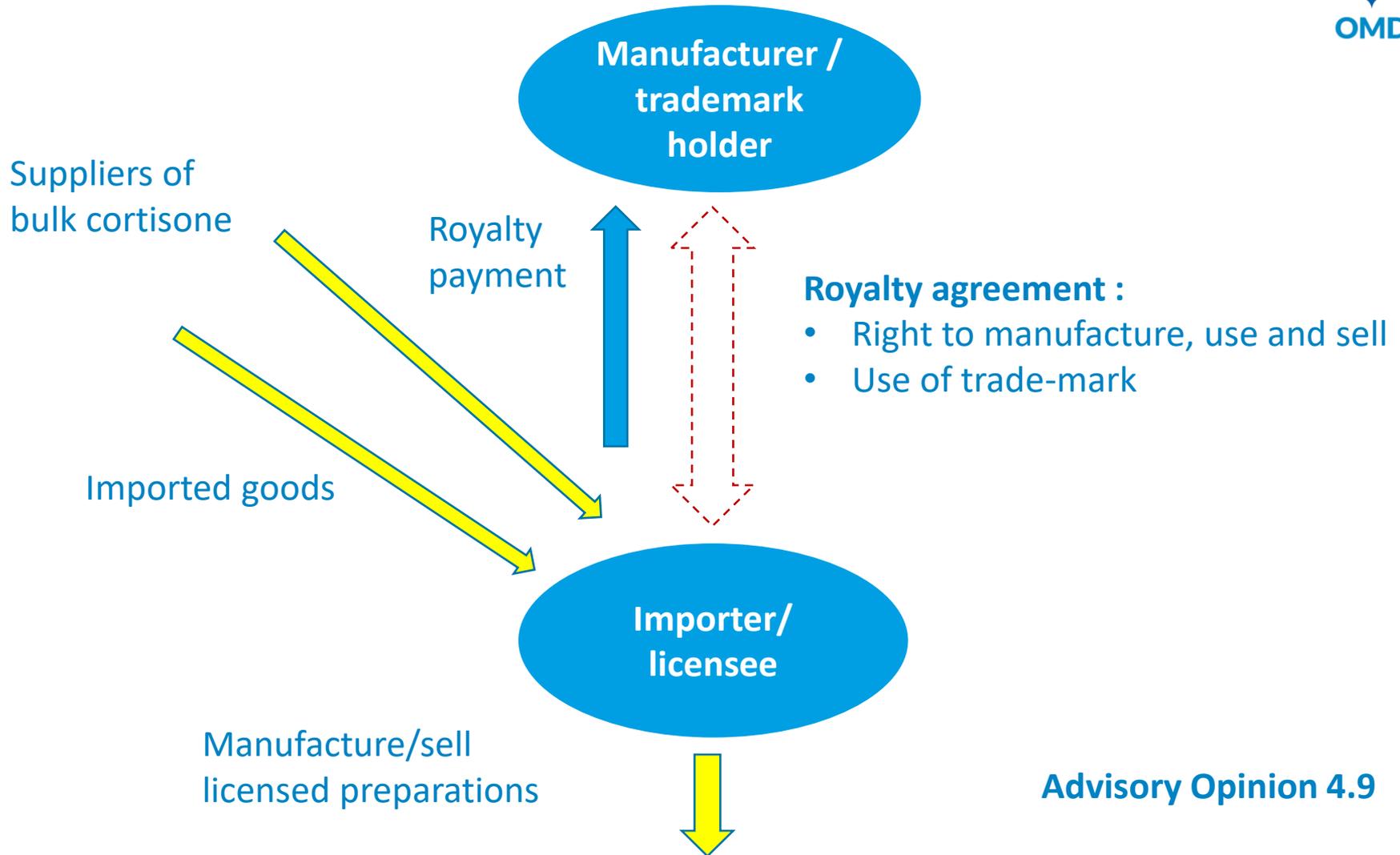
Royalties & License Fees



Advisory Opinion 4.10

6. Adjustments

Royalties & License Fees



6. Adjustments



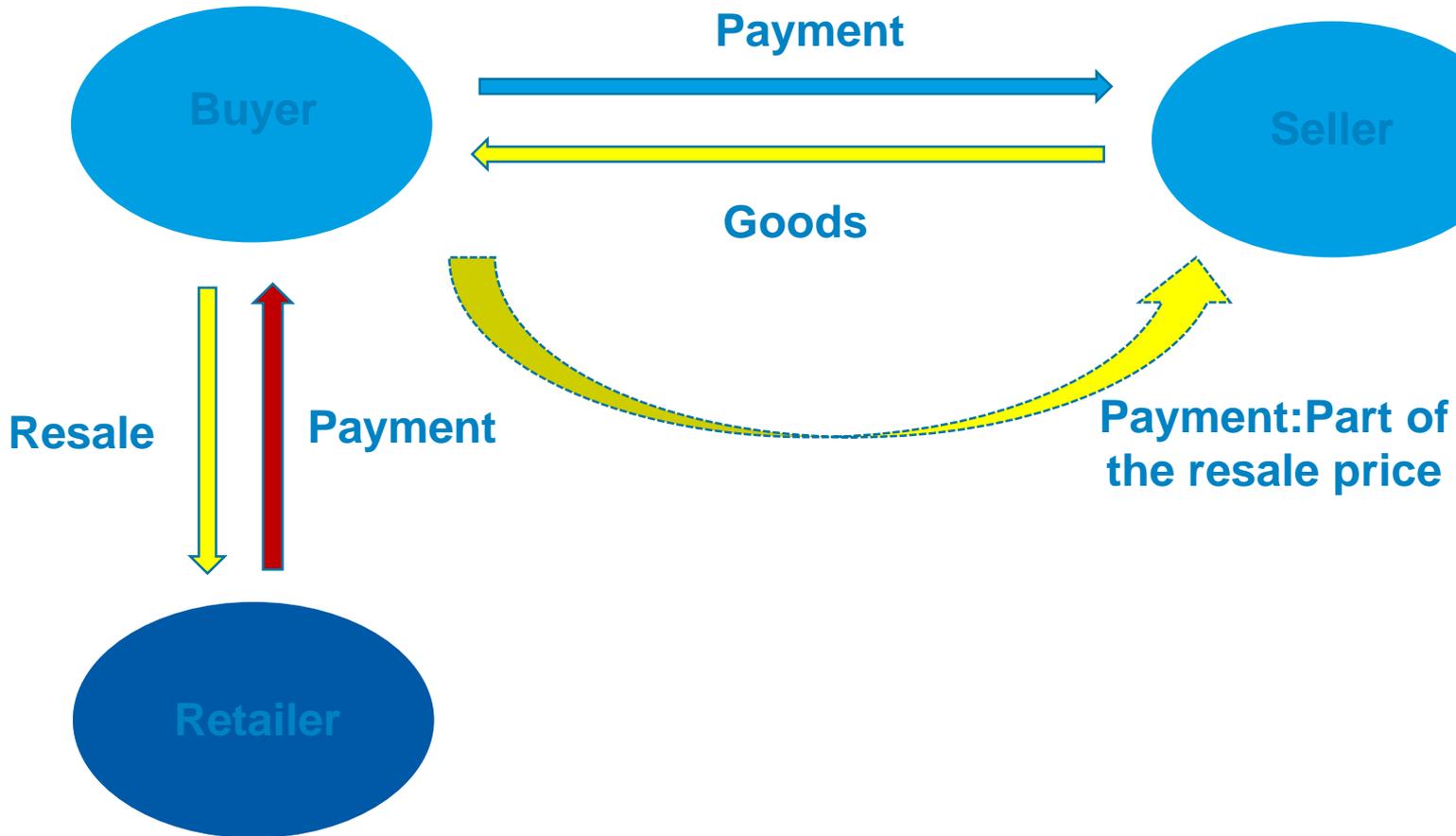
Subsequent Proceeds

- The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller

6. Adjustments



Subsequent Proceeds



6. Adjustments



Optional adjustments

- Depending on each country's decision
 - cost of transport
 - loading, unloading and handling charges
 - cost of insurance
- Terms of Sale
 - INCOTERMS: guidelines for the interpretation of the most commonly used terms in international trade.

6. Adjustments



General Requirements

- Objective and quantifiable data (*Article 8.3*)
Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.
- Condition of addition (*Article 8.4*)
No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.



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Thank you for your attention

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joseph.ouedraogo@wcoomd.org