

**(Unofficial Translation)**

**Ministerial Regulation**

On determination and application of customs value  
B.E. 2560 (2017)

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By virtue of Section 5 paragraph one (6) and Section 16 paragraph two of the Customs Act B.E. 2560 (2017), the Minister of Finance hereby issues the Ministerial Regulation as follows:

**Clause 1** In this Ministerial Regulation:

“Goods of the same class or kind” means goods which fall within a group or range of goods produced by a particular industry or same industry sector, and includes identical or similar goods.

“Produced” includes grown, manufactured and mined.

**Chapter 1**  
**General Provisions**

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**Clause 2** A determination of customs value for a purpose of duty collection for imported goods shall be conducted by applying the following values respectively:

- (1) transaction value;
- (2) transaction value of identical goods;
- (3) transaction value of similar goods;
- (4) deductive value;
- (5) computed value;
- (6) fallback value

In applying the value under paragraph one, an importer may request a customs officer to apply the computed value under (5) prior to the deductive value under (4); and once the customs officer approves as per the importer requested, such value can then be applied.

**Clause 3** The relationship between the persons in the following cases are the relationship that might affect the determination of customs value:

- (1) they are officers or directors of one another's businesses;
- (2) they are legally recognized partners in business;
- (3) they are employer and employee;
- (4) any person directly or indirectly owns, controls or holds 5 percent or more of the outstanding voting stock or shares of both of them;
- (5) one of them directly or indirectly controls the other;
- (6) both of them are directly or indirectly controlled by a third person;
- (7) together they directly or indirectly control a third person;
- (8) they are members of the same family.

The persons with a control power under (4), (5), (6), and (7) means the persons who have a power to legally or practically restrain or command the other.

**Clause 4** The provision of Annex I Interpretative Notes and Annex III under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 shall be taken into consideration for the determination of customs value under this Ministerial Regulation.

**Clause 5** Laws, regulations, rules, judgements and administrative rulings with regard to a general practice that affect the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 shall be published by the Customs Department.

**Clause 6** In determining the customs value under this Ministerial Regulation, the importer shall have a duty to prove the truth or accuracy of any statement or document declared to the customs officer; and if the customs officer has reason to doubt the truth or accuracy of such statement or document, the importer or a person related to an importation of goods shall have a duty to provide further explanation, including document or other evidence to prove the truth or accuracy of the statement or document in such declaration.

**Clause 7** The customs officer shall not disclose confidential information or information received from a confidential basis for a benefit of the determination of customs valuation without permission of the person or government agency providing such information, except a disclosure under a judicial order.

**Clause 8** When the importer submits a written request to receive an explanation on the determination of customs value, the customs officer shall inform in writing to the importer as to the reason for rejection of the declared value and the method of determining the customs value of imported goods.

**Clause 9** The Director-General shall have a power to issue notifications, regulations or commands to comply with this Ministerial Regulation.

## **Chapter 2**

### **Transaction value**

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**Clause 10** The transaction value applied in the determination of customs value of imported goods shall be the price actually paid or payable for such goods when sold for export to the Kingdom.

“The price actually paid or payable” means the total payment made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to the third party in order to comply with an obligation of the seller.

**Clause 11** The costs or values listed below shall also be included in the transaction value of imported goods under Clause 10:

- (1) royalties and license fees related to the imported goods, either directly or indirectly, as a condition of the sale of such goods;
- (2) 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;
- (3) the cost of insurance, cost of transport of the imported goods to a customs house of importation, loading, unloading and handling charges associated with the transportation of the imported goods to the customs house of importation.

**Clause 12** In the case where the buyer is responsible for the expenses or the values listed below, such expenses or values shall also be included in the transaction value of imported goods under Clause 10:

- (1) fees or commissions and brokerage, except buying commissions;
- (2) the cost of containers which are treated as being a part of imported goods for a purpose of duty collection;
- (3) the cost of materials and labour for packing the imported goods.

**Clause 13** In the case where the buyer provides the materials, equipment, or services to be used in the production and the sale for exportation of the imported goods, either directly or indirectly and either free of charge or at reduced cost, the values of such materials, equipment, or services shall be proportionately and suitably included in the transaction value under Clause 10 under the rules, procedures and conditions specified by the Director-General:

- (1) materials, components, parts or similar items incorporated in the imported goods;
- (2) tools, dies, moulds or similar items used in the production of the imported goods;
- (3) materials consumed in the production of the imported goods;
- (4) engineering, development, artwork, design work, plans and sketches undertaken elsewhere than in the Kingdom and necessary for the production of the imported goods.

**Clause 14** In the case where it is explicit that the following charges or costs are included in the transaction value of the imported goods, such expenses shall be deducted from the transaction value of the imported goods prior to the determination of customs value:

- (1) charges for construction, installation, assembly, maintenance or technical assistance undertaken after the importation of such goods;
- (2) cost of transport after the importation;
- (3) taxes and duties related to the importation.

**Clause 15** The listed charges, proceeds or values in Clause 11 and 12, or the value of materials, equipment or services in Clause 13, which will be included in the transaction value of the imported goods and the lists of the charges and costs of Clause 14, which shall be deducted from the transaction value of the imported goods shall be based only on objective and quantifiable data.

**Clause 16** The transaction value of the imported goods applied in the determination of customs value shall be under the following conditions:

- (1) the buyer shall not be restricted in the sale or the use of such goods other than restrictions which:
  - (a) are imposed by the provisions of laws;
  - (b) prohibit the resale of the imported goods in certain places or areas;
  - (c) do not substantially affect the value of the imported goods;
- (2) the sale or price shall not be subjected to some conditions or considerations for which a value cannot be determined;
- (3) the seller shall not accrue the proceeds of any subsequent use or resale of the imported goods by the buyer, either directly or indirectly, unless such proceeds may be included in the transaction value under Clause 11 (2);
- (4) the buyer and the seller are not related as specified in Clause 3, unless such relationship does not influence the transaction value of the imported goods under Clause 17 or Clause 18.

**Clause 17** In case where the customs officer examines the circumstances surrounding the sale of the imported goods and finds that the relationship between the buyer and the seller does not influence the transaction value of the imported goods, the customs officer shall accept such transaction value to be applied in the determination of customs value with or without requesting additional information from the importer.

If the customs officer has grounds to doubt about the relationship between the buyer and the seller may influence the transaction value of the imported goods, the customs officer shall inform the importer, and provide a reasonable period of time for the importer to clarify and demonstrate any evidence to prove such doubt.

**Clause 18** In the case where the transaction value of the imported goods is carried out by the related persons as specified in Clause 3; if the importer can prove that the declared transaction value of the imported goods closely approximates to one of the following values, the customs officer shall accept such transaction value for the determination of customs value:

- (1) the transaction value of identical or similar goods sold for export to the Kingdom where the buyer and the seller are not related;
- (2) the deductive value of identical or similar goods as specified in Chapter 5;
- (3) the computed value of identical or similar goods as specified in Chapter 6

The values under (1), (2) and (3) shall be occurred at or about the same time as the transaction value of the imported goods.

In proving the transaction value under paragraph one, the differences in commercial level and quantity of the sale including the elements enumerated in Clause 12, 13 and 14 as well as the costs incurred by the seller in sales in which the seller and the buyer are not related shall be taken into consideration.

**Clause 19** In the case where the customs value of the imported goods cannot be determined by applying the transaction value of the imported goods under this Chapter, the importer shall have the right to request for consultation process between the customs officer and the importer with a view to determining the customs value under the provisions of Chapter 3 or 4. Information on the customs value of identical or similar goods may be submitted for such consultation.

### **Chapter 3**

#### **Transaction value of identical goods**

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**Clause 20** In the case where the customs value of the imported goods cannot be determined by applying the transaction value of the imported goods under Chapter 2, the customs value of such goods shall be determined by applying the transaction value of identical goods.

**Clause 21** The transaction value of identical goods to be applied in the determination of the customs value shall be the transaction value of the goods which is identical in all aspects with the imported goods, in terms of physical characteristic, quality and reputation, and must be produced in the same country as the imported goods. In this regard, the cost of insurance, the cost of transport of the imported goods to the customs house of importation, loading, unloading and handling charges associated with the transportation of the imported goods to the customs house of importation shall also be taken into consideration.

**Unofficial Translation. Only the Thai version of the texts is legally binding.**

**Clause 22** The transaction value of identical goods under Clause 21 shall be in accordance with the following rules:

- (1) the transaction value of identical goods sold for export to the Kingdom and exported at or about the same time as the imported goods being valued;
- (2) the transaction value of identical goods previously accepted as the customs value according to Chapter 2 “the transaction value”;
- (3) the transaction value in a sale at the same commercial level and in the same quantity as the imported goods being valued;
- (4) shall not be the transaction value that included or comprised of the value of engineering, development, artwork, design work, plans and sketches incurred within the Kingdom.

Where no such transaction value in accordance with (3) is found, the following transaction value of identical goods shall be applied for adjustment; sold at the same commercial level as the imported goods being valued but in different quantities, or sold in the same quantities but at different commercial level, or sold at different commercial level and in different quantities previously accepted as the customs value according to Chapter 2. In this regard, the differences in commercial level or quantity, the cost of insurance, the cost of transport of the imported goods to the customs house of importation, loading, unloading and handling charges associated with the transportation of the imported goods to the customs house of importation shall be taken into consideration based on the evidence presented by the importer.

**Clause 23** If more than one transaction value of identical goods is found, it shall be applied the lowest value of identical goods produced by the same manufacturer, exported at or about the same time, having the same commercial level, quantity, terms of payment and delivery, mode of transportation and any other operations related to the transaction similar to the imported goods, according to the rules specified by the Director-General.

#### **Chapter 4** **Transaction value of similar goods**

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**Clause 24** In the case where the customs value of the imported goods cannot be determined by applying the transaction value of identical goods under Chapter 3, the customs value of such goods shall be determined by applying the transaction value of similar goods.

**Clause 25** The transaction value of similar goods applied in the determination of customs value shall be the transaction value of imported goods which, although not alike in all respects to the imported goods, but have like characteristics or like component materials, were produced in the same country, and perform the same functions or are commercially interchangeable. The consideration shall take into account quality, reputation, and existence of a trademark of the similar goods and imported goods.

**Clause 26** The rules, procedures and conditions on the application of the transaction value of identical goods under Clause 21, 22 and 23 shall be applied, *mutatis mutandis*, on the application of the transaction value of similar goods for the determination of customs value in this Chapter.

#### **Chapter 5** **Deductive value**

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**Clause 27** In the case where the customs value of imported goods cannot be determined by applying the transaction value of similar goods under Chapter 4, the customs value of such goods shall be determined by applying the deductive value, unless the importer requests the customs officer to determine the customs value by applying the computed value prior to the deductive value, and the customs officer approves such request.

**Clause 28** The deductive value applied in the determination of customs value of imported goods shall be based on a unit price of such imported goods sold in the Kingdom in the same condition as imported, subject to deductions for the following:

- (1) either fees or commissions paid or agreed to be paid, usual profit and general expenses in connection with sales of such goods of the same class or kind in the Kingdom;
- (2) cost of insurance, cost of transport, and other charges related to the transportation of goods incurred within the Kingdom;
- (3) taxes and other duties payable in the Kingdom by reason of the importation or sale of the goods.

In the case where there is no unit price of the imported goods as described in paragraph one the unit price of the identical or similar goods sold in the Kingdom, in the same condition as imported which are deducted by the costs or charges in (1), (2) and (3) from unit price of the identical or similar goods, shall be applied respectively, as the case may be.

The unit price of the imported goods under paragraph one or of identical or similar goods under paragraph two shall be based on the unit price at which the goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued. In the event that there is no selling price at that time, the price which has been sold for the greatest aggregate quantity on the first day of the sale of the imported goods, or of identical or similar imported goods, but before the expiration of 90 days after such importation, shall be applied.

**Clause 29** To apply the deductive value under Clause 28, the buyer shall not be related to the seller under Clause 3, and shall not be the supplier of materials, equipment or services under Clause 13 to the seller, for exporting to the Kingdom.

**Clause 30** In the case where there is no sale of the imported goods, the identical goods or the similar goods under Clause 28; if the importer so requests or the customs officer deems appropriate, the unit price of the imported goods after further processing shall be applied by deducting the value added by such further processing and the expenses under the paragraph one of Clause 28.

The unit sale price of the imported goods under paragraph one shall be the sale price of the greatest aggregated quantity, and the buyer is not related to the seller.

## **Chapter 6** **Computed value**

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**Clause 31** In the case where the customs value of the imported goods cannot be determined under Chapter 5, or in the case where the importer requests to determine the customs value by applying the computed value prior to the deductive value, and the customs officer approves such request, the customs value of such goods shall be determined by applying the computed value.

**Clause 32** The computed value applied in the determination of customs value shall consist of the sum of:

- (1) cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (2) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by other producers for export to the Kingdom;
- (3) cost of containers which are treated as being parts of the imported goods;
- (4) cost of packing imported goods whether for labour or materials;
- (5) the value of the materials and equipment as specified under Clause 13 (1), (2) and (3);
- (6) cost of insurance, cost of transport of the imported goods to the customs house, loading, unloading, and handling charges associated with the transportation of the imported goods to the customs house;
- (7) cost of engineering, development, artwork, design work, plans and sketches undertaken in the Kingdom and necessary for the production of the imported goods which calculated such cost of service from producer (if any).

**Clause 33** The determination of customs value under this Chapter shall be conducted based on the information, document, evidence or accounts received from the foreign producer, or the importer on behalf of such producer.

In the case where the importer or the foreign producer cannot provide such information, document, evidence or accounts within a proper period of time, it shall be deemed that the customs valuation cannot be determined under this Chapter.

## **Chapter 7**

### **Fallback value**

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**Clause 34** In the case where the customs value of the imported goods cannot be determined under Chapter 2 through Chapter 6, the customs value for such goods shall be determined by applying the fallback value.

**Clause 35** In the application and determination of fallback value, the rules, procedures and conditions under Chapter 2 through 6 shall be applied respectively, with a reasonable flexibility. Such application and determination shall be in accordance with the rules, procedures and conditions specified by the Director-General.

The fallback value under paragraph one shall not be determined on the following basis:

- (1) the selling price of goods produced and sold in the Kingdom;
- (2) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (3) the price of goods sold on the domestic market of the country of exportation of goods being valued;
- (4) the cost of production, other than the lists for calculating the computed values under Clause 32, for identical or similar goods;
- (5) the selling price of imported goods sold for exporting to a country other than the Kingdom;
- (6) minimum customs values;
- (7) arbitrary or fictitious values.

Given on the 13<sup>th</sup> Day of November B.E. 2560 (2017)

Apisak Tantivorawong

Minister of Finance

**Note:** This Ministerial Regulation, issued as an implementation of Section 16 paragraph two of the Customs Act B.E. 2560, which specifies that the rules, procedures and conditions on the application and the determination of customs value shall be specified in the Ministerial Regulation.