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Page: 1/19

Committee on Customs Valuation

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**NOTIFICATIONS UNDER ARTICLE 22 OF THE AGREEMENT ON
IMPLEMENTATION OF ARTICLE VII OF THE GENERAL
AGREEMENT ON TARIFFS AND TRADE 1994**

CHINA

The following submission, dated 11 April 2018 is being circulated at the request of the delegation of China.

**Decree No. 213 of the General Administration of Customs
of the People's Republic of China**

The Rules of the General Administration of Customs of the People's Republic of China Regarding Determination of Customs Value of Imported and Exported Goods, which were deliberated and adopted at the executive meeting of the General Administration of Customs on 9 December 2013, are hereby promulgated and shall come into force as of 1 February 2014.

Minister
General Administration of Customs
The People's Republic of China

**The Rules of the General Administration of Customs of the People's Republic of China
Regarding Determination of Customs Value of Imported and Exported Goods**

CHAPTER I - GENERAL PROVISIONS

Article 1 These rules are formulated in accordance with the *Customs Law of the People's Republic of China (hereinafter referred to as the Customs Law)* and the *Regulations of the People's Republic of China on Import and Export Duties*, for the purpose of proper determination of the Customs value of imported and exported goods.

Article 2 Customs shall determine the Customs value of imported and exported goods pursuant to the principles of objectivity, fairness and uniformity.

Article 3 The determination of Customs value of imported and exported goods shall be subject to these Rules.

Whereas, these Rules are not applicable to the determination of Customs value of bonded goods for domestic sale, passengers' personal effects, personal postal articles and other belongings for personal use which are allowed to be brought into the Customs territory, and the calculation of dutiable value of imported or exported goods or personal articles under suspicion of smuggling.

Article 4 Customs shall, in accordance with relevant provisions of laws and regulations, keep confidential all information which is by nature confidential or which is provided on a confidential basis for the purposes of customs valuation, and shall not disclose such information outside Customs, unless otherwise provided for by laws or administrative regulations.

Upon written request, the duty payer may ask Customs to keep confidential its commercial secrets by providing a specific list of the contents that need to be covered. However, he shall not refuse to provide Customs with pertinent information by reason of commercial confidentiality.

CHAPTER II - CUSTOMS VALUE OF IMPORTED GOODS

Section I - Methods of Determination on Customs Value of Imported Goods

Article 5 The Customs value of imported goods shall be determined by Customs on the basis of the transaction value, including the costs of transport and other charges associated therewith, and the cost of insurance incurred prior to unloading of the goods at the port or place of entry within the Customs territory of the People's Republic of China.

Article 6 Where the transaction value of the imported goods is inconsistent with the provisions as prescribed in Section II, or it is impossible to determine the transaction value, Customs shall, after inquiring about relevant information and consulting with the duty payer, determine the Customs value by applying the following methods in a sequential order:

- (a) transaction value of the identical goods;
- (b) transaction value of the similar goods;
- (c) deductive value;

- (d) computed value; and
- (e) reasonable means.

At the request of the duty payer, the order of the application of item (c) and item (d) in the preceding paragraph could be reversed, provided that sufficient information has been submitted to the Customs

Section II - Transaction Value Methods

Article 7 The transaction value of the imported goods is the price actually paid or payable by the buyer for the goods when sold by the seller for export to the Customs territory of the People's Republic of China, adjusted in accordance with the provisions of Section III of this Chapter. Payment for the price may be made either directly or indirectly.

Article 8 The transaction value of the imported goods shall be subject to the following terms:

- (a) that there are no restrictions as to the disposition or use of the imported goods by the buyer other than restrictions which are imposed by laws and regulations or to limit the geographical area for resale or do not have substantial effect on the value of the goods;
- (b) that the price is not subject to some condition or consideration for which a value cannot be determined with respect to the imported goods being valued;
- (c) that no part of the proceeds of any subsequent resale, disposal or use of the imported goods by the buyer will accrue directly or indirectly to the seller, or where there are proceeds, but an appropriate adjustment can be made in accordance with the provisions of paragraph 1(d) of Article 11; and
- (d) that the buyer and seller are not related, or where the buyer and seller are related, that the relationship did not influence the transaction value under the provisions of Articles 17 and 18.

Article 9 Any of the following cases shall be deemed to be restrictions as to the disposition or use of the imported goods by the buyer:

- (a) the imported goods can only be for displays or complimentary presentations;
- (b) the imported goods can only be sold to the designated third party;
- (c) the imported goods can only be sold to the seller or the designated third party after being processed to finished products; and
- (d) other cases of restrictions on disposition or use of the imported goods examined and determined by Customs.

Article 10 It shall be deemed that the price of the imported goods is subject to some condition or consideration for which the transaction value cannot be determined in any of the following cases:

- (a) the price of the imported goods established on condition that the buyer shall buy other goods from seller in specified quantities;
- (b) the price of the imported goods established on condition that the buyer shall sell other goods to the seller; and
- (c) other cases examined by Customs and deemed as condition or consideration to which the price is subject and for which a value cannot be determined.

Section III - Adjustments of Transaction Value

Article 11 In determining the Customs value of the imported goods on the basis of the transaction value, the following costs or value, to the extent that they are not included in the price actually paid or payable for the goods being valued, shall be added:

- (a) the costs incurred by the buyer:
 - (i) commissions and brokerage, except buying commissions;
 - (ii) the cost of containers which are treated as being one with the goods in question; and
 - (iii) the cost of packing whether for labour or materials.

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- (b) the value, apportioned as appropriate, of the following goods or services where supplied directly or indirectly by the buyer to the seller free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods to the Customs territory of the People's Republic of China:
- (i) materials, components, parts and similar items incorporated in the imported goods;
 - (ii) tools, dies, moulds and similar items used in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods; and
 - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Customs territory of the People's Republic of China and necessary for the production of the imported goods.
- (c) royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, except in either of the following cases:
- (i) royalties and license fees that are not related to the imported goods being valued; and
 - (ii) royalties and license fees that are not paid as a condition for the sale of the goods in question to the Customs territory of the People's Republic of China.
- (d) 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.

For the above-mentioned value and costs, the duty payer shall provide Customs with information on the basis of objective and quantifiable data. Where such information is not available, Customs shall consult with the duty payer and determine the Customs value by using the methods prescribed under the provisions of Article 6.

Article 12 When determining the value of goods/services (assists) supplied by buyer to be added to the Customs value of the imported goods as provided in paragraph 1(b) in Article 11 of these Rules, the following calculation methods shall be used accordingly:

- (a) if the goods (assists) are bought from an unrelated third party by buyer, the value added shall be the purchase price;
- (b) if the goods (assists) are produced by the buyer or obtained from a related third party, the value added shall be the production cost;
- (c) if the goods (assists) are obtained on lease by the buyer, the value added shall be the lease cost borne by the buyer; and
- (d) the value of tools, dies, moulds and similar items used in the production of the imported goods shall include the charges of engineering, development, artwork, design work, and plans and sketches.

Where the goods have been used by the buyer before being provided to the seller, the value added shall be the depreciated value calculated in accordance with generally accepted accounting principles adopted in the People's Republic of China.

Article 13 Royalties and license fees shall be deemed to be related to the imported goods when falling into one of the following situations:

- (a) Royalties and license fees are paid for the rights of patent or know-how, where the imported goods fall into any one of the following situations:
 - (i) goods containing patent or know-how;
 - (ii) goods produced under patent or know-how; or
 - (iii) machine and/or equipment specially designed and/or manufactured to perform the patented process or know-how.
- (b) Royalties and license fees are paid for the right of trademark, where imported goods fall into any of the following situations:
 - (i) imported goods bearing trademark;

- (ii) imported goods that can be resold directly with the trademark affixed after importation; or
 - (iii) goods that contains the right of trademark as being imported, and could be resold with the trademark affixed after minor processing.
- (c) Royalties and license fees are paid for the copyright, where imported goods fall into any one of the following situations:
- (i) imported goods containing software, words, music, pictures, images and other similar contents, which are in forms of magnetic tapes and disks, CDs and other similar media; or
 - (ii) imported goods containing other copyrighted contents.
- (d) Royalties and license fees are paid for the rights to distribute, resell or other similar rights owned by the seller of the imported goods in the Customs territory of the People's Republic of China, where imported goods fall into one of the following situations:
- (i) goods that could be sold directly after importation; or
 - (ii) goods that could be resold directly after minor processing.

Article 14 Where, without payment of royalties and license fees, the buyer cannot buy the imported goods or where that transaction will not be concluded under the terms and conditions set forth in the sales agreement, the payment of royalties and license fees shall be deemed as a condition of the sale of the imported goods to the Customs territory of the People's Republic of China

Article 15 In determining the Customs value of the imported goods, the following taxes and charges shall not be added to the Customs value of the imported goods concerned, provided that they have been enumerated separately:

- (a) charges for construction, erection, assembly, maintenance, technical assistance undertaken after importation of goods such as industrial plant, machinery and equipment, excluding the warranty charges;
- (b) the cost of transport, insurance and other charges incurred after unloading the goods at the port of entry or place of importation within the Customs territory of the People's Republic of China;
- (c) import duties, taxes on and in connection with importation collected by the Customs and other internal taxes;
- (d) charges for reproduction of the imported goods in the Customs territory of the People's Republic of China; or
- (e) charges for technical training within and outside of the Customs territory of the People's Republic of China and study tour out of the Customs territory of the People's Republic of China.

The interest charge shall not be added to the Customs value provided it meets the following conditions at the same time:

- (a) interest charges are duly incurred under a financing arrangement for the purpose of purchasing of the imported goods by buyer;
- (b) the financing arrangement in question was made in writing;
- (c) the interest charges are distinguished from the price actually paid or payable for the goods; and
- (d) the duty payer can demonstrate that the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when the finance was provided, and the price actually paid or payable for the imported goods being valued closely approximates to the price of identical or similar imported goods without the financing arrangement.

Section IV - Related Parties

Article 16 The buyer and seller shall be deemed to be related in any of the following circumstances:

- (a) they are the members of the same family;
- (b) they are officers or directors of one another's businesses;
- (c) one party directly or indirectly controls the other party;
- (d) both of them are directly or indirectly controlled by a third party;
- (e) together they directly or indirectly control a third party;
- (f) one party directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of the other party;
- (g) one party is an employee, officer or director of the other party; or
- (h) the buyer and seller are legally recognized partners in business.

Where the buyer and seller are associated in business with each other in that one is the sole agent, sole distributor or sole concessionaire of the other, they, if falling into the criteria of the foregoing paragraphs, shall also be deemed to be related.

Article 17 Where the seller and the buyer are related, it shall be deemed that the relationship did not influence the price of imported good when the duty payer can demonstrate that such value closely approximates to the one of the following prices occurring at or about the same time:

- (a) the transaction value in sales to unrelated buyers of identical or similar goods for export to the Customs territory of the People's Republic of China;
- (b) the Customs value of identical or similar goods as determined under Article 22;
- (c) the Customs value of identical or similar goods as determined under Article 24.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, and costs incurred by the seller in sales in which the seller and buyer are not related and that are not incurred by the seller in sales in which the seller and the buyer are related.

Article 18 Having examined the circumstances surrounding the sale, where it can be shown that the price of the imported goods has been settled in a manner consistent with the normal business practice, Customs may determine that the price has not been influenced by the relationship.

Section V - Valuation Methods Other Than Method of Transaction Value

Article 19 The method of transaction value of identical goods refers to the valuation method applied by Customs to determine the Customs value of the imported goods on the basis of the transaction value of identical goods imported at or about the same time for the sale to the Customs territory of the People's Republic of China as the goods being valued.

Article 20 The method of transaction value of similar goods refers to the valuation method applied by Customs to determine the Customs value of the imported goods on the basis of the transaction value of similar goods imported at or about the same time for the sale to the Customs territory of the People's Republic of China as the goods being valued.

Article 21 In applying the method of transaction value of identical or similar goods, the transaction value of identical or similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the Customs value of the imported goods. When using the above-mentioned value, an adjustment shall be made to take account of differences in costs and charges between the imported goods and the identical or similar goods in question arising from differences in distances and modes of transport on the basis of objective and quantifiable data.

If, in applying the foregoing paragraph, no such transaction value of identical or similar goods is found, the transaction value of the identical or similar goods sold at a different commercial level and/or in different quantities could be used. When using the above-mentioned value, an adjustment shall be made to take account of differences in prices, costs or other charges

attributable to commercial level, quantity, and/or distance and modes of transport on the basis of objective and quantifiable data.

Article 22 In determining the Customs value of the imported goods by application of the method of transaction value of identical or similar goods, the transaction value of the identical or similar goods produced by the same manufacturer shall be used in the first place.

Where the transaction value of the identical or similar goods of the same manufacturer is not found, the transaction values of the identical or similar goods of other manufacturers in the same country or its region can be used.

If more than one transaction value of identical or similar goods is found, the lowest value shall be used to determine the Customs value of the imported goods.

Article 23 Deductive value method refers to the valuation method applied by Customs to determine the Customs value of the imported goods on the basis of the resale price in the Customs territory of the People's Republic of China of the imported goods or identical or similar imported goods, after deduction of costs and charges incurred within the Customs territory of the People's Republic of China, provided that the imported goods or identical or similar imported goods are sold:

- (a) at or about the time of importation of the goods being valued;
- (b) in the condition as imported;
- (c) in the first sale within the Customs territory of the People's Republic of China;
- (d) to an unrelated party within the Customs territory of the People's Republic of China; and
- (e) in the greatest aggregate quantity.

Article 24 In determining Customs value of the imported goods by application of deductive value method, the following items shall be deducted:

- (a) profit, general expenses (either direct or indirect) and commissions usually paid, which are incurred in connection with first sales within the Customs territory of the People's Republic of China of imported goods of the same class or kind as the goods in question;
- (b) the cost of transport, charges associated with transport and the cost of insurance incurred after unloading of such goods at the port or place of entry within the Customs territory of the People's Republic of China;
- (c) import duties, taxes collected by the Customs on behalf of other government department at importation of goods and other domestic taxes.

Where neither the goods being valued nor the identical and similar goods are sold within the Customs territory of the People's Republic of China in the condition as imported, at the request of the duty payer, the price of the goods after further processing shall be used to determine the Customs value, provided other conditions set in Article 22 are satisfied, however, the value added for such processing shall be deducted.

The added value resulting from further processing provided in the preceding paragraph shall be calculated on the basis of objective and quantifiable data relating to the cost of process, with criteria and methods accepted by the industry and other industrial practice.

In determining the items to be deducted under this Article, principles and methods applied shall be consistent with the generally accepted accounting principles adopted in the People's Republic of China.

Article 25 Computed value method refers to the valuation method applied by Customs to determine the Customs value of the imported goods on the basis of the sum of the following items:

- (a) the cost or value of raw materials and processing employed in producing the imported goods;

- (b) the profit and general expenses (either direct or indirect) of the goods of the same class or kind as the imported goods being valued which are sold for export to the Customs territory of the People's Republic of China; and
- (c) the cost of transport, insurance and other charges incurred prior to unloading the goods at the port or place of entry within the Customs territory of the People's Republic of China.

In determining the Customs value of the imported goods under the foregoing paragraph, Customs may conduct on-site verification of the information provided by the producer of the goods in another country with the agreement of the producer and notification in advance to the governments of the country or the region in question.

In determining the values or costs under the first paragraph of this article, principles and methods applied shall be consistent with the generally accepted accounting principles applied in the country or the region where the goods are produced.

Article 26 Reasonable means refers to the valuation method applied by Customs to determine the Customs value of the imported goods on the basis of objective and quantifiable data in accordance with the principles prescribed in Article 2, when the Customs value of the imported goods cannot be determined by application of transaction value method, transaction value method of identical or similar goods, deductive value method, and computed value method.

Article 27 In applying reasonable means, no Customs value shall be determined on the basis of:

- (a) the selling price in the Customs territory of the People's Republic of China of the goods produced wherein;
- (b) the higher one of the alternative prices;
- (c) the selling price of the goods on the domestic market of the country of exportation;
- (d) the price of identical or similar goods computed other than the values or costs prescribed in Article 25;
- (e) the selling price of the goods for export to a third country or region other than the People's Republic of China; and
- (f) minimum Customs values, arbitrary or fictitious values.

CHAPTER III - CUSTOMS VALUE OF SPECIAL IMPORTED GOODS

Article 28 The Customs value for machines, tools, means of transport or any other goods, which are transported out of the Customs territory of the People's Republic of China for repair purposes with the declaration thereof made to the Customs at the time of departure and consequently returned to the People's Republic of China within the time limit set by the Customs, shall be determined on the basis of the charges of the repairs and the cost of materials, components and parts used in the course of the repairs.

Where the goods have been shipped back at a time exceeding the time limit specified by Customs, the Customs value shall be determined under the provisions of Chapter II of these Rules.

Article 29 The Customs value of goods which are transported out of the Customs territory of the People's Republic of China for outward processing with the declaration thereof made to the Customs at the time of departure and returned to the Customs territory within the time limit specified by the Customs, shall be determined on the basis of the costs of overseas processing and the cost of materials and parts used in the course of processing, and the cost of transport, charges associated therewith and the cost of insurance of re-importation.

Where the goods have been returned at a time exceeding the time limit specified by Customs, the Customs value shall be determined under the provisions of Chapter II of the Rules.

Article 30 The Customs value of the temporarily imported goods, when they are subject to import duties and taxes, shall be determined under the provisions of Chapter II of these Rules. Where the goods for temporary admission are sold for home use with special approval from Customs, the Customs value shall be determined on the basis of the purchasing price for home use.

Article 31 The Customs value of the imported goods on lease shall be determined in accordance with the following means:

- (a) the Customs value of the imported goods on lease with payment in form of rental charges shall be determined on the basis of the rental charges during the time period together with the interest charges thereof added;
- (b) the Customs value of the leased goods which are purchased for home use shall be determined on the basis of the purchasing price;
- (c) where the duty payer applies for a lump sum payment of duties and taxes, it may choose to have the customs value determined in accordance with the provisions of Article 6 of these Measures or take total rental determined by the Customs as the customs value.

Article 32 The Customs value of the goods which were duty-exempted or duty-reduced and are subject to recovery of Customs duties and taxes, shall be determined on the basis of the value of the goods examined at the time of original importation, deducting the value depreciated. The formula shall be expressed as follows:

Customs value = Customs value examined at the time of entry

The period of time elapsed between the entry of the goods
and the recovery of duties (in term of month)

× (1 - -----)

Statutory years of Customs control ×12

In the above formula, the period of time elapsed between the entry of the goods and the recovery of duties shall be calculated in term of month. If the time is less than a month but more than 15 days, it shall be calculated as a month; if the time is less than 15 days, it shall not be calculated.

Article 33 When there is no transaction value, as for imported goods by way of barter, consignment, donation and presentation etc., Customs shall determine the Customs value by application of the methods prescribed in Article 6 after having consulted with the duty payer.

Article 34 The Customs value of imported carrier media bearing software for data processing equipment shall be determined on the basis of the value or cost of the carrier media itself, in either of the following cases:

- (a) where the value or cost of the carrier media and the value of the software contained therein are listed separately; or
- (b) where duty payer can either furnish documentary evidences to prove the cost or value of the imported carrier media itself, or the value of the software, even though value of software so loaded is not distinguished from the cost or the value of the carrier media.

The provisions of this Article shall not be applicable to the carrier media containing beaux-arts, photography, sound, cinematographic or video recordings, games, and electronic publications etc..

CHAPTER IV - CALCULATION OF THE COSTS OF TRANSPORT AND OTHER CHARGES ASSOCIATED THEREWITH, AND THE COST OF INSURANCE IN THE CUSTOMS VALUE OF IMPORTED GOODS

Article 35 The cost of transport and other charges associated therewith for imported goods shall be calculated on the basis of charges that are actually paid or payable. Where the cost of transport and other charges associated therewith is unascertainable, however, Customs shall calculate the cost for transportation on the basis of the normal transportation cost at the time of importation.

Where the vehicles themselves are treated as imported goods and transported by using their own power, no cost of transport and other charges associated therewith shall be added to the Customs value in determining Customs value.

Article 36 The cost of insurance for imported goods shall be calculated in the fact that the charges are actually paid. If the insurance for imported goods is unascertainable or does not occur in practice, Customs shall calculate the cost of insurance on the basis of 3‰ of the sum of C & F. The formula shall be expressed as follows: The cost of insurance = (Cost of Goods + Freight) × 3‰.

Article 37 For goods imported by mail, the postage alone shall be treated as the costs of transport and other charges associated with transport, and the cost of insurance.

CHAPTER V - CUSTOMS VALUE OF EXPORTED GOODS

Article 38 The Customs value of exported goods shall be determined by Customs on the basis of the transaction value, including the inland costs of transport and other charges associated therewith, and the cost of insurance incurred prior to loading of the goods at the port or place of departure within the Customs territory of the People's Republic of China.

Article 39 The transaction value of exported goods shall be the total value collected or to be collected, directly or indirectly by the seller from the buyer for the goods when sold for export to the outside of the Customs territory of the People's Republic of China.

Article 40 The following duties and charges shall not be added to the Customs value of exported goods:

- (a) export duty; and
- (b) the costs of transport and other charges associated therewith, and the cost of insurance which are incurred after loading of the export goods at the port or place of departure within the Customs territory of the People's Republic of China but listed separately in the payment of the goods

Article 41 Where the Customs value of exported goods cannot be determined, Customs shall, after having inquired about relevant information and consulted with the duty payer, determine the Customs value by applying the following methods in the given order:

- (a) transaction value of the identical goods exported to same country or region at or about the same time;
- (b) transaction value of the similar goods exported to same country or region at or about the same time;
- (c) value calculated on the basis of cost, profit and general expenses (either direct or indirect) for producing the identical or similar product and charges associated with the transport and cost of insurance within the Customs territory; and
- (d) value determined by reasonable means.

CHAPTER VI - EXAMINATION AND VERIFICATION OF CUSTOMS VALUE

Article 42 When making declarations to Customs, the duty payer shall submit truthful and accurate documents including invoice, contract, bill of lading, and packing list etc. according to the provisions of the Rules.

Required by Customs, the duty payer shall also furnish Customs with legal payment instruments related to transaction and other supplemental commercial documents, information or data, in written or electronic forms, reflecting the truth and accuracy of the transaction value.

Where there are any adjustments prescribed under the provisions of Section III of Chapter II of these Rules in the sale of goods, or where there are any costs of transport or other charges associated therewith under the provisions of Article 35, the duty payer shall make a declaration to Customs accordingly based on the facts.

Where the value of foregoing adjustments, the cost of transport and associated charges need to be apportioned, the duty payer shall do it on the basis of objective and quantifiable data, and at the same time provide Customs with proof of the apportionment.

Article 43 To examine and verify the truth or accuracy of the declared value, Customs may exercise the following authorities to check the declared value,

- (a) to examine and copy the contracts, invoices, account books, certificates for foreign exchange settlement and/or payment, bills, business correspondences, audio or video products in relation to the imported and exported goods and other commercial documents, written information and electronic data reflecting the relationship and transaction activities between the buyer and the seller;
- (b) to inquire into the facts related to Customs value of the imported or exported goods by interviewing the duty payer of imported or exported goods and citizens, legal persons and other organizations having monetary and transaction relationship with the duty payer;
- (c) to examine the goods or take samples of the goods for examination or laboratory test;
- (d) to enter into the duty payer's premise and storage facilities to examine the goods and operations relating to imported or exported goods;
- (e) with approval of a director general of Customs districts directly under the General Administration of Customs of PRC or of a director of local Customs authorized by the former and by showing Notice of Account Inquiry of Customs of People's Republic of China (See Attachment 1) and Customs officers' identity cards, to inquire information relating to transfer of money of the company accounts opened with the bank or other financial institution by the duty payer, and notify the banking supervisor agency of relevant information; and
- (f) to inquire of national tax authorities the information concerning the payment of internal taxes in relation to the imported and exported goods.

When Customs exercises the above authorities, the duty payer and relevant citizens, legal persons and other organizations are obligated to provide truthful information, and submit relevant documentary evidence in written or electronic forms. No refusal, delay, concealment is allowed.

Article 44 Where the Customs has doubts about the truth or accuracy of the value declared by the duty payer, or considering the relationship between the buyer and seller did influence the price, Customs shall issue Notice to Query Declared Value by Customs of People's Republic of China (hereinafter referred as Notice to Query Declared Value; see Attachment 2) and notify the duty payer or his agent of the grounds for doubts in written form. The duty payer or his agent shall, within 5 working days from the date of receipt of Notice to Query Declared Value, provide related documents or other evidence in writing that could demonstrate the truth or accuracy of the declared value or the declared value not being influenced by the relationship between the buyer and seller.

If having due cause for not being able to provide the above-mentioned information within the time limit, the duty payer or his agent may, in written form, apply to Customs for extension prior to the expiration of the time limit

Except under special circumstances, the extension shall not exceed 10 working days.

Article 45 Once the Notice to Query Declared Value is issued, Customs shall, after having a process of valuation consultation with the duty payer, determine the Customs value of the imported or exported goods by application of the methods listed in Article 6 or Article 41 of these Rules, in any of the following cases:

- (a) where the duty payer or his agent fails to provide further explanation within the time limit;
- (b) where Customs, after examining the document or evidences provided by the duty payer or his agent, still has reasonable doubts about the truth or accuracy of the declared value; or
- (c) where Customs still, after examining the documents or evidences provided, has reasonable doubts that the relationship between the buyer and seller did influence the transaction value.

Article 46 Where after examination, Customs determines that imported goods have no transaction values, then valuation inquiry may not be made; Customs shall determine the Customs value by application of the methods laid down in Article 6 of these Rules after having valuation consultation with the duty payer.

Where after examination, Customs determines that the exported goods have no transaction value, valuation inquiry may not be made; Customs shall determine the Customs value by application of the methods laid down in Article 41 of these Rules after having valuation consultation with the duty payer.

Article 47 Where valuation consultation is required under the provisions of these Rules, Customs shall issue Notice of Valuation Consultation of Customs of People's Republic of China (hereinafter referred to as Notice of Valuation Consultation, see Attachment 3). The duty payer shall, within 5 working days from the date of receipt of Notice of Valuation Consultation, engage in the valuation consultation with Customs. Where the duty payer has engaged in valuation consultation with Customs within the time limit, Customs shall complete a Record Sheet for Valuation Consultation by Customs of People's Republic of China (see Attachment 4).

Where the duty payer fails to respond within the time limit, it is deemed that he has given up its right of valuation consultation, and Customs may directly determine the Customs value of the imported or exported goods by application of the methods laid down in Article 6 or Article 41 of these Rules.

Article 48 In the following cases, upon written request by the duty payer, Customs may neither launch a valuation inquiry nor conduct valuation consultation, and thus determine the Customs value of the imported or exported goods by application of the methods laid down in Article 6 or Article 41:

- (a) where goods are imported or exported in split shipments under the same contract and Customs has determined the Customs value of goods in one of the previous shipment;
- (b) where the Customs value of imported or exported goods is below 100,000 CNY or the total amount of the Customs duty and other import taxes levied by Customs is below 20,000 CNY; or
- (c) where imported or exported goods are those by nature of hazardous goods, fresh and live products, perishable goods, vulnerable goods, wasted and used goods, etc.

Article 49 Where, in the course of determining the Customs value of imported and exported goods by Customs, the duty payer shall be able to withdraw them from Customs after providing guarantee according to the relevant rules and regulations.

Article 50 After the determination of the Customs value of imported or exported goods by Customs, the duty payer may request in written form for an explanation in writing from Customs as to how the Customs value of his goods was determined. Once so requested, Customs shall issue Notification of Determination of Customs Value by Customs of People's Republic of China (see Attachment 5).

CHAPTER VII - SUPPLEMENTARY PROVISIONS

Article 51 For the purposes of these Rules, the terms and expressions are defined as follows:

"Customs territory" means the Customs territory of the People's Republic of China.

"Customs value" means the value for the purpose of levying Customs duties.

"Buyer" means any natural person, legal person or other organization that buys goods by fulfilling his payment obligation, assuming title and bearing the risk of loss for the imported goods, and as such obtaining incomes. Accordingly, buyer of imported goods means anyone who buys imported goods into the Customs territory of the People's Republic of China.

"Seller" means any natural person, legal person or other organization that sells goods. Accordingly, seller of imported goods means anyone who sells imported goods into the Customs territory of the People's Republic of China.

"Sold for export to the Customs territory of the People's Republic of China" means the act of actually bringing the imported goods into the Customs territory of the People's Republic of

China, transferring the ownership or title of the goods and risks by the seller to the buyer, and making payment therefor by the buyer to the seller.

"Price actually paid or payable" means the total payments actually 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 a third party to satisfy an obligation of the seller.

"Indirect payment" means that upon the seller's request, the total payment made, or to be made, in whole or in part, by the buyer to the third party; or the payment made to offset the differences involved in other financial activities between the buyer and seller.

"Buying commissions" means any fees paid by a buyer to the buyer's agent for the service in the purchase of the imported goods.

"Brokerage fees" means any service fee paid by the buyer to the broker on behalf of the interests of both the buyer and the seller for the service in the purchase of the imported goods.

"Identical goods" means goods produced in same country or region, which are the same in all respects, including physical characteristics, quality and reputation. However, minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical.

"Similar goods" means goods produced in same country or region which, although not alike in all respects, have like characteristic and like component materials which enable them to perform the same functions and to be commercially interchangeable.

"About the same time" means within 45 days before or after the date of declaration of the imported goods being valued. In determining Customs value of the imported goods by application of deductive value method, if imported goods and identical or similar goods were not sold within the Customs territory within 45 days before or after the date of declaration of the imported goods, the time limit for the sale within the Customs territory may be extended to 90 days before or after the date of declaration of the imported goods.

"Generally accepted accounting principles" means any accounting principles, norms and methods generally recognized in relevant countries or regions, including accrual method, matching method, historical cost method and division of revenue expenditure method and capital expenditure method, which are related to the value of the goods.

"Royalties and license fees" means any fees paid by the buyer of the imported goods to the licensor or authorized person for the license and/or transfer of rights in connection with the copyrights, patents, trademarks, know-how and distribution.

"Charge for technical training" means all the expenses borne by the buyer of imported goods for technical training offered by the seller or a third party related, to personnel assigned by the buyer, including salary and tuition, boarding and lodging, traffic and medicare.

"Software" means any programs or documents used by data processing equipments under the provisions of Regulations Regarding Protection of Computer Software.

"Know-how" means any undisclosed knowledge, experience, methods, techniques and skills concerning technological process, formula, product design, quality control, examination and test, marketing management, etc., expressed in forms of blueprints, models, technical data and standards.

"Minor processing" means diluting, mixing, sorting out, primary assembling, repacking, and other similar processing.

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

"Carrier media" means magnetic tapes, magnetic discs and optical discs.

"Valuation examination" means that for the purpose of determining the Customs value of imported or exported goods, Customs exercises its legal authorities prescribed in Article 43 to check out whether the declared value of the imported goods is true or accurate and whether the relationship between the buyer and seller did influence the transaction price by examining documents, verifying data, inspecting physical goods and other related account books.

"Valuation consultation" means that when applying the valuation methods other than the transaction value method, on the basis of keeping confidential of the commercial secret, Customs offers to exchange information and data with the duty payer for the purpose of determining the Customs value.

"Prior to unloading" means prior to the act of unloading.

"Prior to loading" means prior to the act of loading.

Article 52 The duty payer who dissents from the decision made by the Customs on the Customs valuation of goods in question shall pay duties and taxes first according to relevant administrative decisions made by Customs, and may submit an appeal for administrative reconsideration of the case to a higher level of the customs administration in accordance with the law. Should the duty payer refuse to accept the decision on the appeal, he may appeal to the judiciary by bringing the case to the People's Court.

Article 53 Any action in violation of the Rules which constitutes smuggling or violates Customs administrative regulations or violates *the Customs Law* shall be dealt with by Customs in accordance with the *Customs Law* and the *Implementing Regulations on Imposing Administrative Penalties under the Customs Law of the People's Republic of China*. Where the violation constitutes a crime, it shall be subject to criminal penalty according to relevant laws.

Article 54 General Administration of Customs of the People's Republic of China is entitled to interpret and construe these Rules.

Article 55 The Rules shall be effective as of 1 February 2014, whereupon the *Rules of General Administration of Customs of the People's Republic of China Regarding Determination on Customs Value of Imported and Exported Goods* promulgated in the form of Decree No. 148 of the General Administration of Customs on 18 March 2006 shall be repealed simultaneously.

ANNEX I

Notice of Bank Account Inquiry of
×××× Customs of the People's Republic of China

Serial number: _____

_____ (Bank Name)

According to Article 33 of "Regulations of the People's Republic of China on Import and Export Duties", for the purpose of verifying the truth and accuracy of the declared value of imported/exported goods, Customs need to inquire about fund transfers of the bank account of _____ (Company Name). Customs officers _____ (names) are dispatched for this purpose. Please provide assistance accordingly.

___ mm ___ dd _____ yyyy (seal)

ANNEX III

Notice of Valuation Consultation of
×××× Customs of the People's Republic of China

Serial number: _____

_____ (Importer Name):

After review of the declared value of your imported/exported goods, it is decided that the declared value of commodity _____ declared by your company (Declaration Form No. _____) on (dd) ____ (mm) ____ (yyyy) _____ is not acceptable and Customs would re-determine the Customs value. To protect the lawful rights and interests of import and export taxpayers, Customs will conduct valuation consultation with your company according to Article 21 and Article 27 of "Regulations of the People's Republic of China on Import and Export Duties". Please go to _____ (location) for consultation with Customs within 5 working days upon receipt of this notice. The information exchanged in consultation will be used as the basis for Customs to re-determine the Customs value. Please be noted that if your company fails to be present for consultation within prescribed time limit, the Customs value of imported or exported goods will be determined based on the information readily available to Customs.

×××× Customs

(Signature) receiver of the notice ____ (mm) ____ (dd) ____ (yyyy)

ANNEX IVRecord Sheet for Valuation Consultation of
××××Customs of the People's Republic of China

Serial number: _____

After review of the declared value of your imported/exported goods, Customs determine it is not acceptable and the Customs value should be re-determined. According to Article 21/27 of Regulations of the People's Republic of China on Import and Export Duties, in order to obtain information necessary for determination of Customs value and to protect legitimate right of the taxpayer, Customs shall conduct consultation with your company. Information provided will be used to determine the Customs value of imported/exported goods. Untruthful information will result in legal liability.

Location of Consultation		Time of Consultation	
Declaration Number		Date of Import/Export	
Name of Commodity			
Basic Information of Duty Payer			
Name		Gender	Position
ID Number		Telephone Number	
Address			
Method of Transaction Value of the Identical or Similar Goods	Can the duty payer provide the transaction value of identical or similar goods? YES <input type="checkbox"/> NO <input type="checkbox"/>		
Deductive Value Method	Can the duty payer provide resale price of the imported goods or identical or similar imported goods in connection with first sale within the Customs territory of the People's Republic of China? YES <input type="checkbox"/> NO <input type="checkbox"/>		
	Can the duty payer provide information regarding profit and general expenses in connection with first sales within the Customs territory of the People's Republic of China of imported goods of the same class or kind as the goods in question? YES <input type="checkbox"/> NO <input type="checkbox"/>		
Computed Value Method	Can the duty payer provide production cost of the goods in question? YES <input type="checkbox"/> NO <input type="checkbox"/>		
	Can the duty payer provide information regarding profit and general expenses of the goods of the same class or kind as the imported goods being valued, which are sold for export to the Customs territory of the People's Republic of China? Or the profit and general expenses of identical or similar goods as imported goods, which are produced within the Customs territory of the People's Republic of China (in case of exportation)? YES <input type="checkbox"/> NO <input type="checkbox"/>		
Fallback Method	Can the duty payer provide further information? YES <input type="checkbox"/> NO <input type="checkbox"/>		
Price information provided by duty payer:			
Price information readily available to Customs :			
Result of consultation :			
Signature (Customs officer):		___ (mm) ___(dd)___ (yyyy)	
Signature (duty payer/authorized person):		___ (mm) ___(dd)___ (yyyy)	

ANNEX VNotification of Determination of Customs Value by
××××Customs of the People's Republic of China

Serial number: _____

_____ Importer

Import/export port	Declaration No.	Declaration Date
Commodity Name	HS Code	Customs Supervision Mode
Specifications	Origin	
Declared Unit Price	Terms of Delivery	Quantity & Units
Consignee/Consignor		Contract No.
<p>According to _____ (specific Article or Articles) of the Rules of People's Republic of China regarding Determination on Customs Value of Imported and Exported Goods (hereinafter referred to as the Valuation Rules), the declared value of your imported/exported goods is not accepted. Meanwhile, according to the _____ (specific Article) of the Valuation Rules, Customs re-determined the Customs value of your imported/exported goods on the basis of _____ (valuation method).</p> <p style="text-align: right;">___ mm ___ dd _____ yyyy (seal)</p>		
