

ORGANISATION MONDIALE DU COMMERCE

G/VAL/N/1/THA/1
23 juillet 2003

(03-3942)

Comité de l'évaluation en douane

Original: anglais

NOTIFICATION AU TITRE DE L'ARTICLE 22 DE L'ACCORD SUR LA MISE EN ŒUVRE DE L'ARTICLE VII DE L'ACCORD GÉNÉRAL SUR LES TARIFS DOUANIERS ET LE COMMERCE DE 1994

THAÏLANDE

La Mission permanente de la Thaïlande a fait parvenir au Secrétariat la communication ci-après, datée du 17 juillet 2003.

Conformément à l'article 22:1 de l'Accord sur la mise en œuvre de l'article VII de l'Accord général sur les tarifs douaniers et le commerce de 1994, la Mission permanente de la Thaïlande a l'honneur de notifier les règlements nationaux¹ suivants:

1. Loi douanière (n° 17) B.E. 2543.
2. Règlement n° 132 (B.E. 2543) du Ministère des finances "portant établissement des règles, procédures et conditions régissant l'application et la détermination de la valeur en douane".

¹ En anglais seulement.

THE
CUSTOMS ACT (No. 17)
B.E. 2543
BY COMMAND OF THE KING'S MOST
EXCELLENT MAJESTY.

Was promulgated on the 25th
Day of February 2543

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that

Whereas it is expedient to amend the law on customs.

This Act contains certain provisions concerning the restriction of personal rights and liberties, which, under Section 29 together with Section 48 of the Constitution of the Kingdom of Thailand, may be made by virtue of the provisions of the law.

Be it, therefore, enacted by the King, by and with the advice and consent of the Assembly of the Parliament as follows:

Section 1. This act shall be called the "Customs Act (No. 17) B.E. 2543".

Section 2. This Act shall enter into force on and from the day following the date of its publication in the Government Gazette.

Section 3. The definitions of "TRUE MARKET VALUE" or "VALUE" in Section 2 of the Customs Act B.E. 2469 as amended by the Customs Act (No. 9) B.E. 2482 is repealed and replaced as follows:

" "CUSTOMS VALUE" or "VALUE" of any goods

(1) In case of exportation, shall mean the wholesale cash price without deduction or abatement for which goods of the like kind and quality would be sold without loss at the time and place of exportation; or

(2) In case of importation, shall mean the value of goods for the purposes of levying ad valorem duties of customs according to any of

- (a) the transaction value of imported goods,
- (b) the transaction value of identical goods,
- (c) the transaction value of similar goods,
- (d) the deductive value,
- (e) the computed value,
- (f) the fall-back value.

The rules, procedures and conditions on the application and the valuation of the customs value under (a) (b) (c) (d) (e) and (f) shall be in accordance with the Ministerial Regulations."

Section 4. Section 11 of the Customs Act B.E. 2469 as repealed by the Customs Act (No. 9) B.E. 2482 is added as follows:

"Section 11. There shall be added to the transaction value of the imported goods the cost of insurance, the cost of transport to the port or place of importation, loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation.

If there is no cost of insurance, cost of transport to the port or place of importation, loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation, such costs shall be determined as the Director-General may specify."

Section 5. Section 11 bis of the Customs Act B.E. 2469 is added as follows:

"Section 11 bis . If the declared value is clearly low or does not reflect the true value of the goods and if the customs value is determined under the rules, procedures and conditions in accordance with the customs value or value in (2) (a) (b) (c) (d) and (e) of the definitions of "customs value" or "value" in Section 2, the price is still clearly low or does not reflect the true value of such goods, the DirectorGeneral shall have the power to determine the customs value."

Section 6. Section 12 of the Customs Act B.E.2469 is repealed and replaced as follows:

"Section 12. If there is a disagreement as to the true customs value of any goods, the Director-General shall have the right to accept payment in kind, or purchase such goods, or any part or lot of one sort or the whole part or the whole lot, at their declared value increased by two and a half percent; or if payment in kind or such purchase is not made, the Director-General and the owner of the goods shall each have the power to call in an equal number of arbiters not exceeding two on each side to assist them in settling the dispute."

Section 7. Clause three of Section 112 bis of the Customs Act B.E. 2469 as amended by the Announcement of the National Executive Council No. 329 dated 13th December B.E. 2515 is repealed.

Section 8. Section 112 sex, Section 112 septem, Section 112 octo, Section 112 novem, Section 112 decem, Section 112 undecim, Section 112 duodecim, Section 112 tredecim, Section 112 quattuordecim, Section 112 quindecim, Section 112 sedecim, Section 112 septendecim, Section 112 octodecim, and Section 112 novemdecim of the Customs Act B.E. 2469 are added as follows:

"Section 112 sex. The importer or exporter may, in the form laid down by the Director-General, lodge an appeal to the Board of Appeals, against the assessment of the competent officials within thirty days after the date of receiving the notice of assessment. In the case of importation or exportation in a province other than Bangkok and in compliance of the regulations laid down by the Director-General, the -appeal may be filed through a customs station or a regional customs house.

Section 112 septem . There shall be a Board of Appeals composed of the Director-General as Chairman, a representative of the Ministry of Finance, a representative of the Royal Decrees Commission and not less than five but not more than seven qualified persons appointed by the Director-General to be members. The Board shall appoint officials from the Customs Department to serve as Secretary and Assistant Secretary. The Secretary is also a member of the Board.

Section 112 octo. The qualified persons appointed by the Director-General shall remain in office for a term of three years.

After the completion of the term of office, if there is still no new appointment, the member who has completed his term of office shall remain in the office until a newly appointed member assumes the post.

A new member shall be appointed within thirty days after the expiration of another member's term.

A member of the Board having completed his term of office may be reappointed for service but not more than two consecutive terms.

Section 112 novem. Apart from leaving office upon completion of the term, a qualified person shall leave office upon:

- (1) death,
- (2) resignation,
- (3) becoming bankrupt,
- (4) becoming incompetent or quasi-incompetent,
- (5) dismissal by the Director-General because of gross negligence in the performance of duties or gross misconduct,
- (6) having been sentenced by a final judgement to imprisonment, unless it is a sentence for an offence committed out of carelessness or for a petty offence.

In case where a member of the Board leaves office before the expiration of his term, the Director-General shall appoint a person to be a member in his stead and shall retain his office only for the period of time of his predecessor.

Section 112 decem. The quorum of the meeting of the Board of Appeals shall be not less than one half of the total number of the members.

In case the Chairman is absent from the meeting, the Board may elect one of the members to preside over the meeting.

Resolutions of the Board shall be based on simple majority. Each member shall have one vote. If there is a tie, the Chairman at the meeting shall cast another vote to break the tie.

Section 112 undecim. The member having a vested interest in any issue shall not attend the meeting or cast vote in that issue.

Section 112 duodecim. For the purpose of ruling of appeals, the Board of Appeals or the Competent Officer shall have the power to issue a summons requiring the presence of the appellant or a relevant person to give answers or to deliver books of accounts, documents, evidence or information in whatever form or any other relevant evidence to the appeal for examination provided that a period of at least fifteen days from the date of serving the summons shall be allowed for compliance.

In case of any appellant who, without reasonable excuse, fails to comply with the summons issued under paragraph one, or refuses to give answers when questioned, the Board of Appeals may dismiss the appeal.

Section 112 tredecim. The Board of Appeals may appoint a sub-committee to conduct any assignments and report to the Board of Appeals.

Section 112 decem and Section 112 undecim shall be applicable for the subcommittee appointed by the Board of Appeals, *mutatis mutandis*.

Section 112 quattuordecim. The members of the Board of Appeals shall be competent officials under the Criminal Code.

Section 112 quindecim. The rulings of the Board of Appeals shall be final. And in the event that the rulings are changed later, these changes in the rulings shall not have retroactive effect, except where there is a final judgement causing Changes to the rulings, the officials shall be empowered to take action in accordance with the judgement in respect of the unfavorable part that has the retroactive effect and apply it to only the person who is the other litigant in the case.

Section 112 sedecim. In case of additional duty or insufficient guarantee of the amount of duty, the appeal under Section 112 sex does not defer payment of the amount of duty that the Competent Officer has assessed except when the DirectorGeneral or the person designated by him deems fit to allow the delay as requested by the appellant pending the ruling of appeal or the judgement of the court, in which case he shall make payment within thirty days from the date of receiving the notice of the ruling of appeal or of the final judgement of the court.

If the ruling of an appeal results in an increase in the amount of duty, the appellant shall pay the increased amount within the time specified in the first paragraph.

Section 112 septendecim. The ruling of appeal given by the Board of Appeals shall be in writing and shall be delivered to the appellant.

Section 112 octodecim. The appellant may appeal the ruling of the Board of Appeals by filing a law suit within thirty days from the date of receiving the ruling of appeal except in the case that the appeal was dismissed under Section 112 duodecim.

Section 112 novemdecim. Whoever shall fail to comply with the summons of the Board of Appeals or the Competent Officer under Section 112 duodecim shall be liable to imprisonment for a period not exceeding six months or a fine of not more than fifty thousand Baht or both fine and imprisonment.

Section 9. Section 113 bis of the Customs Act B.E. 2469 is added as follows:

"Section 113 bis. Any importer, exporter, agent of such person or relevant person as specified by the Director-General shall have the duty to keep and maintain books of accounts, documents, evidence and any form of information relevant to the goods that is passing or passed through the customs at the place of business or at any other place as the Director-General may require for not more than five years from the date of importation or exportation.

In case that a person or a juristic person under paragraph one dissolved his business, such person or juristic person or liquidator of such juristic person shall keep and maintain such books of accounts, documents, evidence and information under his responsibility on the date of dissolution for two years thereafter.

The Director-General is empowered to lay down the type of documents that the person under paragraph one required to keep and maintain, including the rules, procedures and conditions in keeping and maintaining such books of accounts, documents, evidence and information.

Whoever shall refuse to comply with paragraph one or paragraph two, or refuse to comply with the rules, procedures and conditions in paragraph three shall be liable to imprisonment for a period not exceeding six months or a fine of not more than fifty thousand Baht or both fine and imprisonment."

Section 10. Section 115 bis, Section 115 ter, Section 115 quarter, Section 115 quinqué, and Section 115 sex of the Customs Act B.E. 2469 are added as follows:

"Section 115 bis. In case there is reason to suspect that there is a violation or non-compliance of the provision under this Act or any other relevant Customs laws, the Director-General or the person designated by him, or the Competent Officer who is designated by the Director-General or the person designated by him in writing to be the examiner, is empowered as follows:

- (1) to enter in the place of business of the importer, exporter, agent of a vessel, agent of such person or any other place concerned between sunrise and sunset or during business hours; for this purpose, the examiner shall have the power to order such person or any person in such place to do any act necessary for the examination,
- (2) to ask for facts and to order such persons to produce any books of accounts, documents, evidence or information or any other subject relevant to the offence by such person,
- (3) to seize or impound books of accounts, documents, evidence or any form of information or any other evidence which may prove an offence under this Act or other relevant Customs laws.

Whoever shall obstruct or refuse to comply with the order of the DirectorGeneral or the person designated by him or the Competent Officer in paragraph one shall be liable to imprisonment for a period not exceeding one year or a fine of not more than one hundred thousand Baht, or both fine and imprisonment.

Section 115 ter. In case there is reason to suspect or a finding that there is a violation or non-compliance of the provision under this Act or any other relevant Customs laws, and for the purpose of investigation, the Competent Officer shall have the power to order any importer, exporter, agent of such person or relevant person to the importation or exportation to give a statement or give facts or produce written explanation or order such person to deliver books of accounts, documents, evidence or any form of information on any relevant subject relevant to the offence for examination, provided that a period of at least seven days from receiving such order.

Whoever shall violate or refuse to comply with paragraph one shall be liable to an imprisonment for a period not exceeding one year or a fine of not more than one hundred thousand Baht, or both fine and imprisonment.

Section 115 quarter. In case the offender under this Act is a juristic person, the managing director, or the managing partner or the person who is responsible for the management of such juristic person, the offender shall be liable to the punishment prescribed for such offence unless the offender proves the offence was committed without his knowledge or consent, or he has acted as may be reasonable to prevent such offence.

Section 115 quingue. The relevant person shall reasonably facilitate the due exercise of functions of the Director-General or the person designated by him or the Competent Officer under this Act.

Whoever shall not facilitate the Competent Officer in paragraph one shall be liable to a fine not exceeding twenty thousand Baht.

Section 115 sex. In due exercising of functions under this Act, the Director-General or the person designated by him or the Competent Officer shall produce his identity card to the person concerned.

The identity card shall be in the form laid down by the Director-General as published in the Government Gazette.

Section 11. Section 10 of the Customs Act (No.9) B.E. 2482 is repealed and replaced as follows:

"Section 10. On the importation or exportation of any goods, whether liable to duty or not, the importer or exporter shall in his entry state the description, quality, quantity, weight, customs value and such particulars as may be required by the Director-General, and shall- subscribe in such entry a declaration of the truth of such statement.

Where the customs value is not ascertainable, the importer or exporter shall state the cost at which goods of the like kind and quality could be delivered at the place of importation or exportation, as the case may be, without any deduction or abatement, but exclusive of duty in the case of imports."

Countersigned by
Chuan Leekpai
Prime Minister

Note: The reason for proclaiming the use of this Act is that as Thailand is a member of the World Trade Organization, it is obligated to enforce the provision in Article VII of the General Agreement on Tariffs and Trade (GATT) 1994 and such Agreement prescribes the customs value in assessment, which is different from the Customs Laws which prescribe the market value. Therefore, to be in accordance with Section 7 of the General Agreement on Tariffs and Trade 1994, the true market value method for importation is abolished, and the customs value is used instead. It is also expedient to have a Board of Appeals and the appeal procedure to facilitate the importer or exporter of goods who is not satisfied with the valuation of the Competent Officer, to.. appeal to the committee instead of to the Director-General or his proxy. Toe consideration of the appeal will be correct and transparent. It is also expedient that the relevant parties to importation or exportation keep books of accounts, documents, relevant evidence on importation and exportation for inspection. If there is a reasonable belief that there is a violation, or there is an act that is inconsistent with the Customs law, or there is a finding that there is an offence, the Director-General or the person assigned by him or the Competent Officer is empowered to act as he may deem proper. To expedite the investigation of such offence, it is expedient to include the responsibility of the managing directors, managing partners, managers or anyone responsible for running such juristic persons. Therefore, the Act is enacted.

MINISTERIAL REGULATIONS
No. 132 (B.E. 2543)
ISSUED UNDER AUTHORITY OF THE CUSTOMS ACT B.E. 2469

Specifying rules, procedures and conditions on the application and the valuation of the customs value

The Minister of Finance, in pursuance of the power conferred upon him by Section 2 Clause 12 (2) of the Customs Act B.E. 2469 as amended by the Customs Act (no. 17) B.E. 2543, and Section 122 of the Customs Act B.E. 2469 as amended by the Customs Act (No. 10) B.E. 2483, hereby issues the following Regulations:

Article 1. These Ministerial Regulations shall come into operation from the first day of January B.E. 2543 except the provision in Article 16(3) and the provision in Chapter 6 shall come into operation three years after the date these Ministerial Regulations come into operation.

Article 2. For the purposes of these Regulations:

"Goods of the same class or kind" shall mean goods which fall within a group or range of goods produced by a particular industry or industry sector, and include identical or similar goods;

"Produced" shall mean grown, manufactured, or mined.

Chapter I
General Provisions

Article 3. The methods of determining the customs value for the purposes of levying ad valorem duties of customs on imported goods shall be set out in the sequential order of application as follows:

- (1) the transaction value of the imported goods,
- (2) the transaction value of identical goods,
- (3) the transaction value of similar goods,
- (4) the deductive value,
- (5) the computed value,
- (6) the fall-back value.

At the request of the importer and subject to the agreement approval of the Competent Officer, the order of the application of (4), the deductive value, and (5) the computed value, under paragraph one shall be reversed.

Article 4. Persons shall be deemed related to and influencing the valuation of the customs value only if:

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

Article 5. It is the duty of the importer to satisfy the Competent Officer as to the truth or accuracy of any statement, document or declaration for customs valuation purpose in accordance with these Regulations.

Article 6. The notes in Annex 1: Interpretative Notes, of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 shall be read and applied, in conjunction with the valuation of the customs value under these Ministerial Regulations.

Article 7. The Director-General is empowered to issue notifications, rules or regulations to ensure that the enforcement shall be in accordance with these Regulations.

Chapter II
The Transaction Value of the Imported Goods

Article 8. The transaction value of the imported goods shall be the price actually paid or payable for the imported goods when sold for export to the Kingdom.

Article 9. There shall be added to the transaction value of imported goods under Article 8 as follows:

- (1) royalties and license fees related to the imported goods, either directly or indirectly,
- (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, the cost of transport of the imported goods to the port or place of importation, loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation.

Article 10. There shall be added to the price of the imported goods under Article 8 the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:

- (1) commissions and brokerage, except buying commissions,
- (2) the cost of containers which are treated as being one for customs purposes with the goods in question,
- (3) the cost of packing whether for labor or materials.

Article 11. There shall be added to the price of the imported goods under Article 8, the value apportioned as appropriate in accordance with the rules, procedures and conditions laid down by the Director-General, of the following goods and services supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

- (1) materials, components, parts and similar items incorporated in the imported goods,
- (2) tools, dies, moulds and 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, and plans and sketches undertaken elsewhere than in Bangkok and necessary for the production of the imported goods.

Article 12. If it is clear that there are costs as follows added in the transaction value of the imported goods, such costs may be deducted from the transaction value of the imported goods:

- (1) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods,
- (2) the cost of transport after the completion of the importation,
- (3) duties and taxes associated with the importation.

Article 13. The cost, proceeds or value under Article 9 and Article 10 or the value of the materials, components or services under Article 11 to be included in the market value of the imported goods and the costs under Article 12 to be deducted from the market value of the imported goods shall be based on objective and quantifiable data.

Article 14. The customs value of the imported goods shall be the transaction value provided that

- (1) there are no restrictions as to the description or use of the goods by the buyer other than restrictions which
 - (a) are imposed or required by the public authorities;
 - (b) limit the geographical area in which the imported goods may be resold;
 - (c) do not substantially affect the value of the imported goods;
- (2) the sale or price is not subject to some condition or consideration for which a value cannot be determined;
- (3) 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, unless an appropriate adjustment can be made in accordance with Article 9(2);
- (4) the buyer and the seller are not related in accordance with Article 4, or where the buyer and the seller are related, that the transaction value of the imported goods is acceptable for customs purposes under the provisions of Article 15 or Article 16.

Article 15. If the Competent Officer has examined the circumstances surrounding the sale of the imported goods, the transaction value shall be accepted without demanding for more information from the importer provided that the relationship did not influence the price.

If the Competent Officer has grounds for considering that the relationship influenced the price, he shall communicate his ground to the importer and the importer shall be given reasonable opportunity to appeal. The importer shall clarify or provide in evidence to show to the Competent Officer to demonstrate such doubt.

Article 16. In a sale between related persons under Article 4, the transaction value shall be accepted by the Competent Officer whenever the importer demonstrates that such value closely approximates to one of the following:

- (1) the transaction value in sales to unrelated buyers of identical or similar goods for export to the Kingdom,
- (2) the deductive value of identical or similar goods as specified in Chapter V,
- (3) the computed value of identical or similar goods as specified in Chapter VI.

The value under (1), (2), and (3) shall be the value at or the approximate time of the transaction value of the imported goods.

In applying the tests under paragraph one, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 9, Article 10 and Article 11 and costs incurred by the seller in sales in which the seller and the buyer are not related.

Chapter III The Transaction Value of Identical Goods

Article 17. If the customs value of the imported goods cannot be determined under Chapter II, the customs value shall be the transaction value of identical goods.

Article 18. The transaction value of identical goods to be used in determining the customs value shall be the same in all respects, including physical characteristics, quality and reputation and produced in the same country of the imported goods: The cost of insurance, the cost of transportation of the imported goods to the port or place of importation, loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation shall be taken into consideration. .

Article 19. The transaction value of identical goods under Article 18 shall be as follows:

- (1) the transaction value of identical goods sold for export to the Kingdom and exported at or the approximate time as the goods being valued,
- (2) the transaction value of imported goods that has already been accepted as the customs value,
- (3) the transaction value of identical goods at the same commercial level and in substantially the same quantity,
- (4) not the transaction value which includes the value of engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Kingdom and necessary for the production of the imported goods in the Kingdom.

Where no such sale under (3) is found, the transaction value of identical goods sold at different commercial level and/or in different quantities, and has already been accepted as the customs value, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used provided that such adjustments can be made on the basis of demonstrated evidence by the importer that clearly establishes the reasonableness and accuracy of the adjustments.

Article 20. If more than one transaction value of identical goods is found, the lowest such value shall be used. Such value shall be from the same producer and the time of exportation, the commercial level, the quantities, the conditions of payment and delivery, and associated costs shall be close to those of the imported goods in accordance with the rules laid down by the Director-General.

Chapter IV The Transaction Value of Similar Goods

Article 21. If the customs value of imported goods cannot be determined by the transaction value of identical goods under Chapter III, the customs value shall be the transaction value of similar goods.

Article 22. The transaction value of similar goods, although not alike in all respects, shall have like characteristics, like component materials and produced in the same country, which enable them to perform the same functions and to be commercially interchangeable. The reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar.

Article 23. The rules, procedures and conditions of the transaction value of identical goods under Article 18, Article 19 and Article 20 shall be applied in determining the transaction value of similar goods, *mutatis mutandis*.

Chapter V
The Deductive Value

Article 24. If the customs value of the imported goods cannot be determined by using the transaction value of similar goods under Chapter IV, the customs value shall be the deductive value, except when, at the request of the importer and subject to the agreement of the Competent Officer, the computed value shall be used.

Article 25. The deductive value to be used in the determination of the customs value of the imported goods shall be the unit price at which the imported goods or identical or similar imported goods are so sold in the Kingdom subject to deductions for the following:

- (1) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in the Kingdom of imported goods of the same class or kind,
- (2) the usual costs of transport and insurance and associated costs incurred within the Kingdom,
- (3) the customs duties and other national taxes payable in the Kingdom by reason of the importation or sale of such goods.

If there is no unit price of the imported goods under paragraph one, the unit price at which the imported of identical goods or similar goods in the Kingdom subject to the deductions of (1), (2) and (3) shall be used as the case may be, respectively.

The unit price of the imported goods under paragraph one or the identical or similar goods under paragraph two shall be based on the unit price at which the imported goods are sold in the greatest aggregate quantity at or about the same time of the importation. If there is no such price at such time, the price at which the imported identical or similar goods, at the earliest date after the importation of the goods being valued but before the expiration of 90 days after such importation, shall be used.

Article 26. In applying the deductive value under Article 25, the buyer and the seller shall not be related as specified in Article 4, and shall not be the supplier of materials, equipment or services as specified in Article 11 for the seller for exportation in the Kingdom.

Article 27. If there is no sale of the imported goods, or identical goods or similar goods under Article 25, at the request of the importer or as the Competent Officer deems proper, the unit price of the imported goods which are additionally processed shall be used. The additional process cost and the cost and charges under Article 25 paragraph one shall be deducted from the transaction value of such imported goods.

The unit price under paragraph one shall be the price sold at the highest quantity and the buyer and the seller are not related.

Chapter VI The Computed Value

Article 28. If the customs value of the imported goods cannot be determined by using the deductive value under Chapter V or at the request of the importer that the computed value be used before the deductive value and subject to the agreement of the Competent Officer, the computed value shall be used.

Article 29. The computed value shall consist of the sum of

- (1) the 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 producers in the country of exportation for export to the Kingdom,
- (3) the cost of containers which are treated as being with the imported goods,
- (4) the cost of packing whether for labor or materials of the imported goods,
- (5) the cost of materials and components specified in Article 11 (1), (2), and (3),

-
- (6) the cost of insurance, cost of transport of the imported goods to the port or place of importation, loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation,
- (7) engineering; development, artwork, design work, and plans and sketches undertaken in the Kingdom and necessary for the production of the imported goods and charged from the producers (if any).

Chapter VII
The Fall-back value

Article 30. If the customs value of the imported goods cannot be determined by using the value under Chapter 11 to Chapter VI, the customs value shall be the fallback value.

Article 31. In determining the fall-back value, the rules, procedures and conditions of the use and determining the transaction value under Chapter 11 to Chapter VI shall be used sequentially but with a reasonable flexibility in the applications of such methods in accordance with the rules, procedures and conditions laid down by the Director-General.

The fall-back value under paragraph one shall not be determined on the basis of:

- (1) the selling price of goods produced 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 on the domestic market of the country of exportation,
- (4) the cost of production other than computed values which has been determined for identical goods or similar goods in accordance with Article 29,
- (5) the price of the goods for export to a country other than the Kingdom,
- (6) minimum customs value, or
- (7) arbitrary or fictitious values.

Given on the 9th day of March B.E. 2543
Pichase Panvichatkul
Deputy Minister acting Minister of Finance

Note: The reason for proclaiming the use of these Ministerial Regulations is that the provision in Section 2 paragraph twelve (2) of the Customs Act B.E. 2469 as amended by the Customs Act (no. 17) B.E. 2543 specifies that the rules, procedures and conditions for the use and the determining of the customs value for the purposes of levying ad valorem duties on the imported goods shall be made through the Ministerial Regulations. These Ministerial Regulations are therefore issued.
