

The Government of the Republic of the Union of Myanmar

Ministry of Planning and Revenue

Notification

No. 91/2017

8th Waning of Tawthalin 1379 ME

September 13, 2017

Procedures on Customs Valuation

The Ministry of Planning and Revenue, by exercising its power conferred by Section 30 of the Sea Customs Act, issues the following procedures.

Chapter 1

Title and Definition

1. These procedures shall be called the Procedures on Customs Valuation.
2. The expressions in this procedure shall have the same meaning as described in the Sea Customs Act and the following expressions shall have the meaning set forth herein:

- (a) **Transaction Value** means the total price paid or payable for the imported goods by the buyer which is calculated in accordance with Article 8 of the Customs Valuation Agreement of the World Trade Organization.
- (b) **Transaction Value of Identical Goods** means sale value of those which are imported at or about the same time when the goods under valuation process are imported.
- (c) **Identical Goods** means goods which are the same in all respects, including physical characteristics, quality and reputation.

Note: Minor difference in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical.

- (d) **Transaction Value of Similar Goods** means sale value of those which are imported at or about the same time when the goods under valuation process are imported.
- (e) **Similar Goods** means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable.

Note: (i) Such goods may be commercially interchangeable in the nature of sale.

- (ii) The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar.
- (f) **Deductive Value** means the value of imported goods or identical or similar goods after deducting commission fee based on a unit price which is sold to persons having no relation with the supplier who sells large amount of quantity at one time in the domestic market under the same conditions of goods being imported or other general expenses and profit, local tax and other fees, and costs.
- (g) **Computed Value** means CIF value for which all of the costs are computed from manufacturing to final goods including costs for raw materials, same amount of profit and general costs of the goods which class and kind are same as the goods being valued, transport costs and insurance expenses.
- (h) **Fall-Back Value** means reasonable value determined based on, as much as possible, previous valuation method for the imported goods and information available in the Republic of the Union of Myanmar.
- (i) **Customs Value of Imported Goods** means customs valuation based on the value of goods to be imposed for customs duties.
- (j) **Production** means production of agriculture and industry products, handiwork, resource, mineral.
- (k) **Cost** means costs, fee, amount paid or to be paid in respect of production and sale of the goods.
- (l) **General expense** means costs and fees directly or indirectly paid for exporting the goods and the costs for production of goods.
- (m) **Selling Commissions** means the fee paid or to be paid to the overseas agent of the seller for its service in selling goods.
- (n) **Buying Commissions** means the fee paid to the agent of local importer for representing the importer to buy the goods being valued.
- (o) **Service Fee** means amount paid for service provided by agent or intermediary who do not represent as the agent of seller or buyer to cause transaction. Such service fee is only subject to the value of the goods being transacted.
- (p) **Goods of the same class or kind** include identical or similar goods and the goods which are in a group or groups of goods produced from specific industry or industry sector.

- (q) **Related Persons** means those who meet the following requirements:
- (1) Participation as an officer or director in a business of a person;
 - (2) Being shareholder of a business;
 - (3) Being employee and employer;
 - (4) Possessing or controlling 5% or above of the shares directly or indirectly;
 - (5) Controlling directly or indirectly one another among buyer and seller;
 - (6) Controlling by third person on both seller and buyer;
 - (7) Both seller and buyer control directly or indirectly third person;
 - (8) Being members of a family.

Chapter 2

Primary basis for Customs value

3. Valuation of imported goods is not imaginary. It must be a value which reflects reasonable, fair, equal and actual transaction without partiality and it shall be based on the actual transaction value as much as possible.
4. Any of the following methods shall be applied in customs valuation. In doing so, the order starting from Method 1 shall be used until the customs value is completed:
 - (a) Method 1 : Transaction Value Method
 - (b) Method 2 : Transaction Value of Identical Goods Method
 - (c) Method 3 : Transaction Value of Similar Goods Method
 - (d) Method 4 : Deductive Value Method
 - (e) Method 5 : Computed Value Method
 - (f) Method 6 : Fall-Back Value Method
5. If an importer requests, Method 4 and 5 may be interchangeable by applying in order.

Chapter 3

Transaction Value Method

6. Customs Value of imported goods shall be transaction value. It means that if the following provisions are met in the transaction, it shall be the actual value paid or to be paid in the transaction of goods to import to the Republic of the Union of Myanmar and calculated in accordance with the provisions of the General Agreement on Customs and Trade of the World Trade Organization.

7. The following shall be observed in applying Transaction Value Method:

- (a) No restriction is applied other than the following for disposal or utilization of goods by the buyer:
 - (i) Restrictions stipulated or required by the laws of imported country or authorities;
 - (ii) Area restrictions for resale of goods;
 - (iii) Restrictions not affecting the value of goods significantly;
- (b) The sale or price shall not be under the stipulation or consideration which has no cause to valuation of goods being valued;
- (c) If the reasonable valuation could not be done under the provisions of this Chapter, any resale, disposal or utilization of the goods by the buyer shall have directly or indirectly no benefit to the seller;
- (d) Buyer and seller shall not be related persons.

Consultation Value

8. The value actually paid or to be paid shall be added the following:

- (a) The following costs and fees caused by the buyer and not included the actual value of the goods:
 - (i) Commission and brokerage other than buying commission;
 - (ii) Packing costs for the goods together with the relevant goods being valued;
 - (iii) Costs for labour or raw material in respect of packing;
- (b) The proportionate value of the following goods and services which are not included in the value actually paid or to be paid and which are provided directly or indirectly by the buyer with free of charge or discount:

- (i) Raw materials, components and elements of imported goods;
 - (ii) Equipment, images on metal, models and similar goods to be used for the production of imported goods;
 - (iii) Raw materials which are non-reusable after using in the production of imported goods;
 - (iv) Industrial construction, art, design and sketch developed in a place other than in the importing country;
- (c) Fees for intellectual right and license directly or indirectly paid by the buyer for the goods being valued under a purchase agreement
- (d) Value of any process by which importer receives profit in resale, disposal or utilization of imported goods.
9. Customs value of imported goods is the value based on CIF value and includes the following costs and fees:
- (a) Costs for transport at the imported port or place;
 - (b) Loading fee and maintenance charge for transport at the imported port or place;
 - (c) Costs for insurance.
10. In consultation, computed amount to the value actually paid or to be paid shall be based on reasonable and measurable information.
11. Except the above clause 8, 9 and 10, nothing shall be computed to the value actually paid or to be paid in order to consider customs valuation.

Chapter 4

Transaction Value of Identical Goods Method

12. In applying transaction value of identical goods method, transaction value of identical goods which have same class and quantity of the goods being valued shall be applied in determining its value.
13. Identical goods shall meet the following requirements:
- (a) External appearance;
 - (b) Quality;

- (c) Reputation;
 - (d) Manufacturing country is same;
 - (e) Producer is same.
14. If any of the following three events is occurred, a sale of identical goods is applied:
- (a) Sale of goods having same class but different quantity;
 - (b) Sale of goods having different class but same quantity;
 - (c) Sale of goods having different class and quantity.
15. If any of the following three events is occurred, consultation value shall be made for the following matters according to the relevant situation:
- (a) Information for quantity;
 - (b) Information for class;
 - (c) Information for both of class and quantity.
16. The requirements are as follows in order to make valuation of imported goods for applying identical goods method:
- (a) Goods must be identical with the imported goods;
 - (b) The country of manufacturing the goods being valued shall be the same;
 - (c) The goods being valued shall be imported at or about the same time (30 days before or after import)
 - (d) The quantity and class of the identical goods previously imported shall be significantly same with the quantity and class of goods being valued. (Consultation value may be made by adjusting the difference of quantity and class.)
 - (e) When there are two or more transaction values for identical goods, the lowest value shall be applied.

Chapter 5

Transaction Value of Similar Goods Method

17. In applying the transaction value of similar goods method, the transaction value of similar goods which have same class and quantity of the goods being valued shall be applied in determining its value.
18. Similar goods shall meet the following requirements:
 - (a) External appearance and components shall be almost same;
 - (b) Having same performance and it shall be replaceable;
 - (c) Manufacturing country is same;
 - (d) Producer is same.
 - (e) It shall be imported at or about the same time.
19. If any of the following three events is occurred, a sale of similar goods is applied:
 - (a) Sale of goods having same class but different quantity;
 - (b) Sale of goods having different class but same quantity;
 - (c) Sale of goods having different class and quantity.
20. If any of the following three events is occurred, consultation value shall be made for the following matters according to the relevant situation:
 - (a) Information for quantity;
 - (b) Information for class;
 - (c) Information for both of class and quantity.
21. The requirements are as follows in order to make valuation of imported goods for applying similar goods method:
 - (a) Goods must be similar with the imported goods;
 - (b) The country of manufacturing the goods being valued shall be the same;
 - (c) The goods being valued shall be imported at or about the same time (30 days before or after import)

- (d) The quantity and class of the similar goods previously imported shall be significantly same with the quantity and class of goods being valued. (Consultation value may be made by adjusting the difference of quantity and class.)
- (e) When there are two or more transaction values for similar goods, the lowest value shall be applied.

Chapter 6

Deductive Value Method

22. Customs value of imported goods shall be based on a unit price, after allowing the following deduction, which is sold to persons having no relation with the supplier who sells large amount of quantity at or about the time of importing goods being valued under the same conditions of goods being imported:

- (a) Regular commission fee;
- (b) Profit and general cost;
- (c) Transport charge, insurance fee, and their related costs;
- (d) Customs duties and other fees of the importing country.

23. If any identical or similar goods are not purchased at or about the time of importing goods being valued, the value shall be based on a unit price of imported goods which are earliest purchased under the same conditions of goods being imported in the importing country within 90 days after goods being valued are imported.

24. If the goods are not purchased under the same conditions being imported in the Republic of the Union of Myanmar and the importer requests, the customs value shall be based on a unit price sold to persons in the Republic of the Union of Myanmar who sell large amount of quantity of imported goods after allowing deduction of computed value and deduction.

25. The following requirements shall meet to apply deductive value method:

- (a) Such imported goods or identical or similar goods in the Republic of the Union of Myanmar shall be sold in domestic market;
- (b) The sale of imported goods or identical or similar goods shall be at the same conditions when imported;

- (c) When resale is made after imported for valuation with deductive value method, it shall be made to the buyer who is not a related person and of first trade class;
- (d) Each price for deduction shall be the price of goods sold with largest quantity;
- (e) Resale of imported goods or identical or similar goods shall be at or about the same time of importing the goods being valued;
- (f) It shall not be used for the sale to a person who receives goods supported and services directly or indirectly with free of charge or discount as stated in clause 8(b) to support the seller in the Republic of the Union of Myanmar;
- (g) If imported goods or identical or similar goods are not sold on the date of importing or such period, the transaction value at the date earlier than the importing date or the earliest transaction value within 90 days after importing may be applied.

Chapter 7

Computed Value Method

26. The following values shall be added when computed value method is applied:
- (a) costs for imported goods from manufacturing stage to final goods including costs for raw materials, costs for final production, costs or value for other production process;
 - (b) Same amount of profit and general costs of the goods which class and kind are same as the goods being valued and made by producers in exporting country;
 - (c) Costs of transport by ship or flight, loading costs, fees and insurance expenses.
27. The following shall be considered in computed value method:
- (a) Customs value shall be based on information available in the Republic of the Union of Myanmar;
 - (b) In applying computed value method, there shall be restriction for the matters in which buyer and seller are related;
 - (c) Producer shall, according to the process, develop and provide to the authorities of the Republic of the Union of Myanmar about information related to the production costs and necessary for verification;

- (d) Information for costs related to imported goods shall be based on transaction account of producer and such account shall be in accordance with the financial principles generally accepted;
- (e) Information for profit and general costs shall reflect the amount of selling goods which class and kind are same with the goods being valued.

Chapter 8

Fall-back Value Method

28. When customs valuation is undertaken with fall-back value method, no customs value shall not be determined based on the following provisions:

- (a) Sale price of goods produced in the Republic of the Union of Myanmar;
- (b) Higher price between two prices;
- (c) Price of goods in domestic market of exporting country;
- (d) Other production costs except computed value determined for identical or similar goods in accordance with the provisions of Method 5 – computed value method;
- (e) Price of goods exported to other country except importing to the Republic of the Union of Myanmar;
- (f) The lowest customs value;
- (g) Imaginary or unreasonable value.

29. The following shall be met in applying fall-back value method:

- (a) Making decision until the customs value is set by reasonably defining according to previous valuation methods;
- (b) Ensuring to be consistent with the provisions and theory of Chapter 7 of General Agreement on Trade and Customs of the World Trade Organization;
- (c) Based on information available in the Republic of the Union of Myanmar.

30. If importer requests, he shall be notified in writing the provisions for customs valuation and the method being applied.

Chapter 9

Producing, Assembling or Re-importing the modified goods

31. If the goods which is produced, assembled or modified overseas are re-imported by declaring that they will be only used in domestic, the whole or part of tariff to be paid for those goods under the Sea Customs Act may be exempted. However, valuation for those re-imported goods shall be undertaken in accordance with the provisions of this Procedure.

32. In relation to such matter, imposing the import duty and taxes shall be based on computed value done overseas for re-imported goods. In such case, the value of re-imported goods shall be determined between the value of temporary export to overseas and that of goods modified overseas. For some matters, tariff shall be upon the value of re-imported goods. If the re-imported goods under the sale contract are under the term of guarantee, the import duties and tariff imposed for the substituted re-imported goods shall be exempted. The list of value of goods modified or substituted overseas shall be submitted to the Customs Department.

33. In all matters of re-import, the whole value of re-imported goods shall be firstly determined and valuation shall be based on such value and shall be undertaken in accordance with the procedures of the above clause 31 and 32. The application, valuation method and outcome for such matters shall be the same for all offices of the Customs Department.

Chapter 10

Procedures for partially exports

34. 'Partially export' between seller and buyer for the matters such as distribution, transportation or payment may be made through a customs office or other customs offices for importing partially but not at one time.

35. The following types are included in partially export:

- (a) **Partially export from different places:** The reasons for partially export of industrial components and factory construction materials are that they are supplied from different places or they are so huge to deliver by a shipment or delivery is according to the schedule of factory installation. The customs value of each import is only based on the value actually paid or to be paid for all of imported goods. Buyer makes payment to seller or seller's beneficiary by dividing total amount to be paid into reasonable payments. If the separate list of value for partially import is submitted, consultation value may be made according to calculation of transaction value method. If the separate list of value is not

submitted, valuation shall be made upon total transaction value with reasonable method in accordance with generally accepted financial principles.

- (b) **Partially export due to quantity:** Customs value shall be based on the value actually paid or to be paid without considering fluctuation of price occurred in the market at or after execution of sale contract according to the description of transaction value method.
- (c) **Partially export due to geographically distribution:** Valuation of customs value for partially import through each customs office shall be based on the value of each partially import. Value actually paid shall be computed after final import is completed.

Chapter 11

Goods not consistent with Sale Contract or Invoice

36. The valuation methods for damaged goods, under standard goods and substituted goods for such goods are as follows:

- (a) **Damaged goods:** Valuation for damaged goods shall be made as follows:
 - (i) **Totally damaged goods:** No valuation shall be made if there is a process that totally damaged goods are re-exported, abandoned or destroyed.
 - (ii) **Having value at partially damaged goods or piece of damaged goods:**

In the event that there is value at partially damaged goods or piece of damaged goods, transaction value method shall represent the value of the rest of goods which are not damaged. Customs value shall be determined by applying other valuation methods in order for the damaged amount.
- (b) **Goods not consistent with stipulated standards:** Valuation shall be made by the following methods for the goods which are not consistent with stipulated standards:
 - (i) **Re-export, abandon or destroy:** No valuation shall be made if there is a process that goods not consistent with stipulated standards are re-exported, abandoned or destroyed.
 - (ii) **Incorrect goods or goods not consistent with standards:** If goods are delivered even they are not consistent with stipulated standards or they are

delivered by mistake and if buyer accepts them, valuation shall be made as follows:

- (aa) Transaction value method (Method 1): This could not be applied because there is no transaction.
 - (bb) Transaction value of identical or similar method (Method 2 or 3): This may be applied in order from top to down.
 - (cc) Deductive value method (Method 4): This may be applied.
 - (dd) Computed Value Method (Method 5): This may be applied.
 - (ee) Fall-back Value Method (Method 6): This may be applied.
- (c) **Substitution of goods:** Valuation for substituted goods is made as follows:
- (i) **Consecutively import:** For consecutively import, purchase order shall be issued that goods are purchased at original price. Transaction value method (Method 1) may be applied in the specific arrangement for original goods. Transaction value shall be accepted for determining customs value by transaction value method (Method 1). First import shall be deemed as a specific matter.
 - (ii) **Simultaneously import:** Transaction value shall be deemed as the value for total numbers of import. Separate substitution with free of charge and the quantity further delivered shall not be considered in valuation.

Chapter 12

Computing delivery fee and insurance cost

37. Incoterms shall be considered in customs valuation and freight and insurance costs shall be computed according to the provisions of Chapter 3 of this Procedure.

Chapter 13

Self-assessment

38. In applying self-assessment, information provided by the seller shall be used for customs declaration by importer, valuation and taxation upon the imported goods because buyer fully possesses information relating to transaction value and commercial information.

39. Self-assessment by importer itself is generally the form which facilitates trade and importer or trader is allowed to pay taxes for import as he is trusted. The amount of tariff to be paid by importer or buyer is known in advance through such performance.

40. For self-assessment, importer may apply one of the following two methods:

- (a) Importer may perform declaration of customs value for imported goods and make payment of import duties before submitting import documents;
- (b) Though importer fulfilled the above requirements, taxes are paid after the Customs Office checked customs valuation for import, classification and other legal requirements.

41. In applying self-assessment for customs valuation, importer shall observe the following obligations:

- (a) All of declaration documents and information required for customs valuation and ratification shall be submitted;
- (b) If the Customs Office requests, buyer or importer or agent shall accurately and correctly submit how transaction is made based on other information related to transaction or imported goods, parts included in customs value and reasonable information for customs value.

Chapter 14

Administrative Provisions

Currency Exchange Rate

42. Valuation shall be made with weekly average exchange rate stipulated by the Customs Department based on daily exchange rate issued by the Central Bank of Myanmar.

Confidentiality

43. The relevant authorities shall strictly keep all information as confidentiality for mutual trust or customs valuation. Such confidential information shall not be disclosed without permission of the Director General of the Customs Department or the Customs Department other than the requirement of the law.

Appeal against the Valuation determined by the Customs Office

44. Importer has a right to appeal for the value determined by the Customs Department. The decision of the Director General of the Customs Department shall be final and binding. There shall be no fine for doing appeal against such valuation.

Deposit

45. Importer may take the goods if he provides enough deposit which covers the highest customs duties to be paid for the goods being levied by guarantee of a person or by providing deposit or other reasonable warranty without preventing the goods by the Customs Department when final customs valuation is required to suspend or valuation process could not be completed.

Written Request

46. Importer may have a right to request in writing to officer-in-charge of Valuation Unit how customs valuation for the goods is made. And if so requested, such officer shall reply.

Authority of the Customs Department

47. If the Customs Department requests to submit statement, document, and correctness and accuracy of declaration submitted for customs valuation, the importer shall submit them.

Burden of Proof

48. If the Customs Department has a reason of doubt in respect of documents declared for customs valuation, the importer shall be responsible for burden of proof upon such doubt.

Chapter 15

Miscellaneous

49. The documents including e-documents submitted for customs valuation shall be kept up to seven years in accordance with Sub-section (a) (i) of Section 194 of the Sea Customs Act and they shall be submitted without fail to the Customs Officer when requested for inspection.

50. The following documents shall be submitted to the Customs Officer for customs valuation:

- (a) Invoice
- (b) Packing List
- (c) Letter of Credit

- (d) Freight Bill
- (e) Insurance Bill
- (f) Firm Order/ Purchase Order
- (g) Sale Contract
- (h) Catalogue Price/ Price List)
- (i) Advertisements, Brochure, Pamphlet
- (j) Cash Receipt/ Voucher
- (k) Import Licence/ Import Permit
- (l) Other related documents

51. The decision of the Customs Department shall be final and binding in relating to customs valuation.

52. If the procedures on customs valuation are not complied, the Sea Customs Act shall be applied.

53. This Notification shall come into effect on the date of publishing.

Kyaw Win

Union Minister

Letter: SaBa/ Revenue-2/1/295 (3929/2017)

Date: 13th September, 2017

Circulation:

President Office;

Office of the Union Government;

Office of the Pyidaungsu Hluttaw;

Office of Pyithu Hluttaw;

Office of Amyotha Hluttaw;

The Supreme Court of the Union;

The Constitutional Tribunal;

The Union Election Commission;

All of the Ministries;

Union Attorney General's Office;

Union Auditor General's Office;

Union Civil Service Board;

Central Bank of Myanmar;

Nay Pyi Taw Council;

Nay Pyi Taw Development Committee;

All of the State/ Region Government Offices;

Anti-Corruption Commission Office;

Myanmar National Human Rights Commission Office;

Customs Department;

All Other Departments of this Ministry;

Printing and Publishing Department (With the request for dissemination in the Myanmar Gazette);

All Other Divisions of this Ministry.

Sd. xxxx

Tun Tun Naing

Permanent Secretary