



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE

## BUREAU OF CUSTOMS

MANILA

June 14, 1996

### CUSTOMS ADMINISTRATIVE ORDER NO. 2-96

SUBJECT: ~~RULES AND REGULATIONS IMPLEMENTING SECTION 2 (TRANSITORY PROVISION), 5 AND 6 OF REPUBLIC ACT NO. 8181 AMENDING SECTION 201 OF TITLE II, PART I OF PRESIDENTIAL DECREE NO. 1464 OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED, ON THE DETERMINATION OF CUSTOMS DUTIABLE VALUE.~~

By authority of Section 4 of Republic Act No. 8181, the following rules and regulations are hereby promulgated:

#### Components of Dutiable Values

During the Transition Period as provided for in Section 2 of R.A. 8181, the dutiable value of an imported article shall be the sum of the following:

#### 1.0 COST

1.1 **Primary Cost** — The export value at which, at the time of export, the same or identical, like or similar article is freely offered for sale in the principal export markets of the exporting country for exportation to the Philippines, in the usual wholesale quantities and in the ordinary course of trade (excluding internal excise taxes to be rebated), or where there is none on such date, then on the export value nearest to the date of exportation, including:

mark shall be among the factors to be considered in determining whether or not the goods are similar.

#### 1.4 Relationship of Export Value and Invoice Value

"Export Value" does not necessarily correspond to the importer's invoice or transaction value. Export value may be obtained from the export value of the same or identical, like or similar article of other transactions or source of information.

2.0 **INSURANCE PREMIUM** — covering the transportation of such article to the port of entry in the Philippines.

3.0 **FREIGHT** — covering the transportation of such article to the port of entry in the Philippines.

### II. Ascertainment and Publication of Export Values

4.0 The correct dutiable value of imported article shall be ascertained by the Commissioner of Customs using for that purpose, reports of Revenue or Commercial Attache, or other Philippine diplomatic officers, or such other source of information available to the Bureau of Customs.

5.0 Values ascertained from the foregoing shall be published by the Commissioner of Customs in the form of Customs revision orders and circulars or in any manner that will make them readily available to the public. The publication must be updated regularly.

5.1 To inform the public of the existence of such published values, an announcement shall be made in a newspaper of general circulation indicating therein the Revision Order number and a general description of the subject matter of publication.

5.2 The Commissioner of Customs shall create dependable file of export values, develop a system of public information and then report to the Secretary of Finance when these things have been set in place.

### III. Administrative Provisions

11.2.1 Prima facie evidence to show that the published value is inaccurate;

11.2.2 Cash Bond equivalent to the difference between duties and taxes due based on the published value and that based on the importer's value plus 25% thereof conditioned upon the payment of additional duties and taxes for which the importation may be found liable upon final resolution by the appropriate Customs Appeals body; and

11.2.3 Filing Fee as may be prescribed by the Bureau of Customs

### 12.0 Petition to Review Published Values

During the effectivity of the published value, any interested party may petition the Commissioner of Customs to review such published value for the purpose of updating the same. The decision of the Commissioner of Customs maintaining or revising the publication value sought to be reviewed shall also be published but shall be given prospective application. Importations shall be assessed based on the published export value already effective at the time of importation, notwithstanding the filing of a petition for the review of said published value. Petition to Review Published Value shall be referred to the special customs body created in accordance with subparagraph 16.1 of this Order.

### 13.0 Procedure on NO CRF and Delayed CRF Shipments.

Importations subject to CRF that were brought in without the required CRF shall continue to be governed by existing rules and regulations specifically the provisions of CMO 9-95, as amended, and related issuances except in so far as they are inconsistent with or deemed modified by R.A. 8181 or this Order. Requests for tentative release of shipments with delayed CRFs shall continue to be governed by CMO 16-95, as amended, and related issuances except in so far as they are inconsistent with or deemed modified by R.A. 8181 or this Order.

time of export, the same or identical, like or similar article is freely offered for sale in the principal export markets of the exporting country for exportation to the Philippines, in the usual wholesale quantities and in the ordinary course of trade (excluding internal excise taxes to be rebated), or where there is none on such date, then on the export value nearest to the date of exportation, including:

- 1.1.1 the value of all containers, coverings, and/or packings of any kind and
- 1.1.2 all other expenses, costs and charges incident to placing the article in a condition ready for shipment to the Philippines.

## 1.2 Alternate Cost

- 1.2.1 **Cost at Country of Manufacture/Origin.** — When the value defined in 1.1 above cannot be ascertained at the country of exportation or where there exists a reasonable doubt as to the fairness of such value, then the export value of the article for exportation to the Philippines shall be the export value of the article in the principal export markets of the country of manufacture or origin, if such country is not the country of exportation.
- 1.2.2 **Third Country Cost.** — When the value cannot be ascertained either thru subparagraphs 1.1 or 1.2 above or there exists a reasonable doubt as to the fairness of the value determined thru those processes, then the export value of the article shall be the export value for export to the Philippines of such article from a country with the same stage of economic development as the country of exportation.
- 1.2.3 **Domestic Wholesale Selling Price.** — Where the dutiable value of the article cannot be ascertained as provided for in the preceding paragraphs, or there exists a reasonable doubt as to the dutiable value of the imported article declared in the entry, the dutiable value of the article shall be the domestic wholesale selling price of such or similar article in Metro Manila or other principal markets in the Philippines on the date the duty becomes payable on the article under appraisalment, in the usual wholesale quantities and in the ordinary course of

- 5.2 The Commissioner of Customs shall create dependable file of export values, develop a system of public information and then report to the Secretary of Finance when these things have been set in place.

## III. Administrative Provisions

### 6.0 Role of the Comprehensive Import Supervision Scheme

The government appointed surveyor must ascertain the export value following sub-paragraphs 1.1, 1.2 (except 1.2.3), 1.3, 1.4, 2.0 and 3.0 of this Order.

### 7.0 Use of CRF Value

The dutiable value shall be based on the value reflected on the Clean Report of Findings (CRF) unless the published value, or the invoice value or the value declared in the import entry is higher.

### 8.0 Appeal Against CRF Value/Classification

Except as shall further be amended to conform with the amendatory provisions of R.A. 8181 and this Order, the pertinent provisions of CMO 3-95, as amended, and related issuances, shall continue to govern the handling of CRF disputes as to dutiable value or tariff classification or both.

### 9.0 Appraiser's Appeal Against CRF Value/Classification

When the appraiser has a value information other than a published value, which is higher than CRF or in the event he has basis to challenge the correctness of the CRF tariff heading he shall elevate the matter to the appropriate body or bodies handling CRF disputes following established procedures. Such appraiser's appeal shall not however operate to bar the continuous processing and release of the goods based on the CRF without guaranty but the entry in such a case shall be marked under tentative liquidation and shall then be referred to the bodies described in subparagraph 7.2 for resolution.

### 10.0 Appeal Against the Applicability of Published Values

Appeal against the applicability of a published value on a shipment under appraisalment shall be referred to the administrative body to be created by the Commissioner of Customs pursuant to subparagraph 16.1 of this Order. The shipment involved may be tentatively released subject to:

signs of CMO 3-95, as amended, and related issuances except in so far as they are inconsistent with or deemed modified by R.A. 8181 or this Order. Requests for tentative release of shipments with delayed CRFs shall continue to be governed by CMO 16-95, as amended, and related issuances except in so far as they are inconsistent with or deemed modified by R.A. 8181 or this Order.

### 14.0 Shipment Exempt from Pre-Shipment Inspection (PSI)

For shipment exempt from Pre-Shipment Inspection (PSI) under the Comprehensive Import Supervision Scheme (CISS), the dutiable value shall be based on the published value unless the invoice value or the value declared in the entry is higher.

### 15.0 CRF-Exempt Shipments with No Published Values

When the shipment is CRF-exempt and there is no published export value for the goods, the importer, may declare the goods based on the invoice value. However, the dutiable value shall be ascertained pursuant to this Order, i.e., the invoice value may be rejected if available information is obtained following sub-paragraphs 1.1 and 1.2 of this Order.

### 16.0 Creation of Special Customs Appeals Bodies

16.1 Pursuant to Section 6, R.A. 8181, the Commissioner of Customs shall create such body or bodies to receive protests regarding the correctness/accuracy or comparability/applicability of published values, including petition to review such published values. Such body or bodies shall receive the evidence and submit its or their recommendations to the Commissioner of Customs. The body shall submit its report in writing and post in a conspicuous place whatever decision is reached by the Commissioner of Customs thereon. The Commissioner of Customs shall prescribe the procedure in handling protest against the (a) accuracy or (b) applicability of published values and (c) petition to review published values. Proceedings in the resolution of protest against the correctness/accuracy or comparability/applicability of published values shall be summary in character.

16.2 All questions relating to the accuracy or correctness of the SGS Clean Report of Findings shall be referred to the Customs-SGS Import Valuation and Classification Committee or such other similar body

graphs, or there exists a reasonable doubt as to the dutiable value of the imported article declared in the entry, the dutiable value of the article shall be the domestic wholesale selling price of such or similar article in Metro Manila or other principal markets in the Philippines on the date the duty becomes payable on the article under appraisal, in the usual wholesale quantities and in the ordinary course of trade, minus:

1.2.3.1 not more than twenty-five percent (25%) of the domestic wholesale selling price, for expenses and profits, and

1.2.3.2 duties and taxes paid thereon.

### 1.3 Identical and Similar Goods.

For purposes of sub-paragraphs 1.1 and 1.2 above, the following definitions are provided:

#### 1.3.1 "Identical Goods"

Shall mean goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical.

#### 1.3.2 "Similar goods"

Shall mean 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. The quality of the goods, their reputation and the existence of a trade-

### 10.0 Appeal Against the Applicability of Published Values

Appeal against the applicability of a published value on a shipment under appraisal shall be referred to the administrative body to be created by the Commissioner of Customs pursuant to sub-paragraph 16.1 of this Order. The shipment involved may be tentatively released subject to:

10.1 Existence of a prima facie evidence showing that the importation is different from that described in the publication in the light of sub-paragraphs 1.3.1 and 1.3.2 of this Order.

#### 10.2 Guaranty Requirement

10.2.1 If shipment is CRF-exempt, importer shall be required to put up a post-dated check to be supported by a bank guaranty.

10.2.2 If shipment is covered by CRF, no guaranty shall be required for the tentative release of the shipments but the entry shall be marked "under tentative liquidation".

### 11.0 Protest Against the Correctness or Accuracy of Published Values

Under 4.0 and 5.0, values are to be published so the public may have the opportunity to question the published value.

11.1 Protest may be lodged within fifteen (15) days from date of publication of the export value as provided for in sub-paragraph 5.1 of this Order.

11.2 If the shipment covered by the protest arrives before the resolution of the protest, the importer may request for its tentative release which request must be accompanied by:

values. Proceedings in the resolution of protest against the correctness/accuracy or comparability/applicability of published values shall be summary in character.

16.2 All questions relating to the accuracy or correctness of the SGS Clean Report of Findings shall be referred to the Customs-SGS Import Valuation and Classification Committee or such other similar body created by the Commissioner of Customs for the purpose.

### IV. Repealing Clause

17.0 All Orders, Memorandum, Circulars or parts thereof which are inconsistent with this Order are hereby deemed rescinded and/or modified accordingly.

### V. Effectivity and Coverage

18.0 This Order shall take effect on July 1, 1996 and shall apply on all shipments exported on the date of effectivity of this Order. All shipments exported prior to July 1, 1996 shall continue to be assessed based on the old Home Consumption Value (Fair Market Value) System.

  
GUILLERMO L. PARAYNO, JR.  
Commissioner

APPROVED:

  
ROBERTO F. DE OCAMPO  
Secretary of Finance

Date of Approval:  
June 14, 1996