

## Article 3

(1) The costs to be added to the price actually paid for payable as mentioned in Article 2 are :

a. the costs incurred by the buyer but are not included in the price actually paid or payable :

- 1) commissions and brokerage, except buying commissions ;
- 2) the costs of containers which are treated as being one for Customs purposes with the goods in question;
- 3) the costs of packing whether for labour or materials.

b. The value of goods and services :

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

supplied directly or indirectly by the buyer, on the condition that the goods and the services are :

- i. free of charge or at reduced cost ;
  - ii. for use in connection with the production and sale for export of the imported goods ;
  - iii. not included in the price actually paid or payable.
- c. royalties and license fees related to the goods being valued that the buyer must pay either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and license fees are not included in the price actually paid or payable.
- d. the value of any part of proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.

- e. the cost of transport of the imported goods to the port or place of importation.
  - f. loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation.
  - g. the cost of insurance.
- (2) The costs to be added to the price actually paid or payable as referred to in paragraph (1) shall be based on objective and quantifiable data.

#### Article 4

The transaction value cannot be used as the Customs value when :

- a. there is conditions or considerations imposed to transaction that affects the price of the imported goods being valued ;
- b. there is part of proceeds of any subsequent resale, disposal or use of the goods by the buyer accrued directly or indirectly to the exporter and not included in the price actually paid or payable;
- c. there is relationship between importer and exporter that affects the price of the imported goods ; and/or
- d. there are restrictions as to the dispositions or use of the imported goods other than :
  - i. are imposed or required by law or by the public authorities in the Customs Territory;
  - ii. limit of the geographical area in which the goods may be resold ; and/or
  - iii. do not substantially affect the value of the goods.

#### Article 5

- (1) If the Customs value of the imported goods cannot be determined based on the transaction value, the Customs value will be determined based on the transaction value of identical goods which sold for export to the Customs Territory and exported at or about the same time as the goods being valued.
- (2) The transaction value of the identical goods as referred to in paragraph (1) is the transaction value declared in the Customs Declaration for Import (PIB) which has

been determined as the Customs value by the Directorate General of Customs and Excise in line with the Article 16 of the Law No. 10 of 1995 on Customs

- (3) In applying the paragraph (1), the transaction value of identical 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.
- (4) Where no such sale mentioned in paragraph (3) is found, the transaction value of identical goods sold at a different commercial level and / or in different quantities, adjusted to take account of differences attributable to commercial level and / or to quantity, shall be used, provided that such adjustment can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment.
- (5) Such adjustment as mentioned in paragraph (4) can also be made for the transportation cost in case that there are difference between the port of loading of the goods being valued and the port of loading of the identical goods.
- (6) If, in applying this Article, more than one transaction value of identical goods is found, the lowest value of the identical goods shall be used to determine the Customs value.

#### Article 6

- (1) If the Customs value of the imported goods cannot be determined based on the transaction value of the imported goods or the transaction value of the identical goods, the Customs value shall be the transaction value of similar goods sold for export to be imported to Customs Territory and exported at or about the same time as the goods being valued.
- (2) The transaction value of the similar goods as referred to in paragraph (1) is the transaction value declared in the Customs Declaration for Import (PIB) which has been determined as the Customs value by the Directorate General of Customs and Excise in line with the Article 16 of the Law No. 10 of 1995 on Customs.

- (3) In applying the paragraph (1), the transaction value of 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.
- (4) Where no such sale mentioned in paragraph (3) is found, the transaction value of similar goods sold at a different commercial level and / or in different quantities, adjusted to take account of differences attributable to commercial level and / or to quantity, shall be used, provided that such adjustment can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment.
- (5) Such adjustment as mentioned in paragraph (4) can also be made for the transportation cost in case that there are difference between the port of loading of the goods being valued and port of loading of the similar goods.
- (6) If, in applying this Article, more than one transaction value of similar goods is found, the lowest value of the similar goods shall be used to determine the Customs value.

#### Article 7

- (1) If the Customs value of the imported goods cannot be determined based on the transaction value of the imported goods or the transaction value of the identical or the similar goods, the Customs value shall be determined based on the deductive method.
- (2) The deductive method as referred to in paragraph (1) means a method to calculate Customs value of imported goods based on a selling price of the imported goods, or identical goods, or similar goods in the Customs Territory with the same condition as imported.
- (3) Such sale as referred to in paragraph (2) shall be a sale between unrelated party.
- (4) Unit price which is used to determine the Customs value based on this deductive method shall be the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the registration time of the Customs declaration on import of the goods being valued.

- (5) If neither the imported goods nor identical goods nor similar imported goods are sold at or about the registration time of the Customs declaration on import of the goods being valued as mentioned in the paragraph (4), the Customs value shall be based on the unit price at which the imported goods or identical or similar goods are so sold in the Customs territory within 90 days at the latest after the registration time of Customs declaration on import of the goods being valued.
- (6) To determine the Customs value, the unit price as referred to in paragraph (4) and (5) subject to deduction as follows:
- a. the commission usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales of the imported goods of identical or similar goods in the Customs Territory;
  - b. usual costs of transport and insurance and associated costs which become the responsibility of the importers after the imported goods or identical or similar goods arrive in the destination port or any importation point within the Customs Territory;
  - c. the Customs duties and other national taxes payable for the imported goods or identical or similar goods.
- (7) If neither the imported goods nor identical nor similar imported goods are sold in the Customs Territory in the condition as imported, then, on the request of importers, the Customs value shall be based on unit price at which the imported goods are sold in different conditions provided that adjustment has been made to the differences.

#### Article 8

- (1) If the Customs value of the imported goods cannot be determined based on the transaction value of the imported goods or the identical or the of the similar goods or based on the deductive method, the Customs value shall be determined based on the computed method.
- (2) The computed value as referred to in paragraph (1) is the value acquired by summing the following costs:

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods ;
  - (b) 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 ;
  - (c) transportation cost from the port of loading to the destination port in the Customs Territory, including the cost of loading, unloading and handling charge related to the transportation of the imported goods to the destination port in the Customs Territory ;
  - (d) the cost of insurance.
- (3) The costs or fees as referred to in paragraph (2) includes any costs mentioned in the Article 3 paragraph (1) points a and b.
- (4) The determination of the Customs value based on the computed value will make use of any information delivered by the producer of the imported goods being valued and any data available in the producer's bookkeeping which arranged based on the general accounting principles applicable in the country of the producer of the imported goods.

#### Article 9

- (1) If the Customs value of the imported goods cannot be determined based on the transaction value of the imported goods, or the transaction value of the identical or similar goods, or deductive value or the computed value, the Customs value shall be determined based on the data available in the Customs Territory which used based on the principles and provisions as referred to in Article 2, Article 5, Article 6, Article 7, and Article 8 in reasonable means.
- (2) No Customs value shall be determined under provisions of this paragraph on the basis of .
- a. the selling price in the country of importation of goods produced in such country;
  - b. a system which provides for the acceptance for Customs purposes of the higher of two alternative values ;
  - c. the price of goods on the domestic market of the country of exportation ;

- d. the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of paragraph 5 ;
- e. the price of goods for export to a country other than Customs Territory ;
- f. minimum Customs values ; or
- g. arbitrary or fictitious value.

#### Article 10

The Director General of Customs and Excise is instructed to undertake this Decree by taking in consideration the Law No. 7 of 1994 on the Ratification of the Agreement Establishing the World Trade Organization, especially the Agreement on the Implementation of Article VII of The GATT 1994.

#### Article 11

This Decree shall enter into force since 1 April 1997.

For public cognizance, this Decree shall be promulgated by publishing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

At the date of December 18<sup>th</sup>, 1996

Minister of Finance

**Mar'ie Muhammad**

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