

[BC CUSTOMS ADMINISTRATIVE ORDER NO. 2-96, June 14, 1996]

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:

I.

Components of Dutiable Value

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:

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 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 trademark 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 Attaché, 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

6.0 Role of the Comprehensive Import Supervision Scheme

The government appointed surveyor must ascertain the export value following subparagraphs 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.