

eksport ke Malaysia barang-barang yang sama kelas atau jenis sebagaimana barang-barang yang dinilai itu, yang dibuat atau ditanggung oleh pengeluar barang-barang itu kepada pengimport di Malaysia yang tidak mempunyai pertalian dengan pengeluar itu yang daripadanya pengimport membeli barang-barang itu pada masa barang-barang itu dijual kepada mereka.

(3) Bagi maksud peraturan ini, "perbelanjaan am" ertinya kos, caj dan perbelanjaan yang langsung dan tidak langsung dalam pengeluaran dan penjualan barang-barang bagi eksport selain kos, caj dan perbelanjaan yang dirujuk dalam perenggan (2)(a).

(4) Amaun keuntungan dan perbelanjaan am yang dirujuk dalam perenggan (2)(b) hendaklah dihitung atas dasar peratusan dan ditentukan atas dasar maklumat yang mencukupi yang disediakan oleh atau bagi pihak pengimport barang-barang yang dinilai itu dengan cara yang selaras dengan prinsip perakaunan yang diterima secara amnya negara pengeluaran barang-barang yang dinilai itu.

(5) Bagi maksud subperaturan (4), jika maklumat yang dibekalkan oleh atau bagi pihak pengimport barang-barang yang dinilai itu tidak mencukupi, pegawai kastam yang hak itu boleh menjalankan suatu pemeriksaan penjualan di Malaysia terhadap kumpulan atau julat yang paling terhad barang-barang yang sama kelas atau jenis sebagaimana barang-barang yang dinilai itu yang daripadanya maklumat yang mencukupi boleh diperolehi pada pendapat pegawai kastam yang hak.

#### Penilaian anjal dibenarkan

10. (1) Jika nilai kastam barang-barang yang diimport tidak dapat ditentukan di bawah peraturan 4 hingga 9, nilai kastam hendaklah ditentukan dengan maklumat yang ada di Malaysia atas dasar nilai yang didapati daripada kaedah penilaian yang dinyatakan dalam peraturan 4 hingga 9 yang ditafsirkan dengan cara yang anjal dan secara munasabahnyanya diselaraskan setakat yang perlu untuk mendapatkan nilai kastam barang-barang itu.

(2) Suatu nilai kastam tidaklah boleh ditentukan atas dasar—

- (a) harga jualan di Malaysia barang-barang yang dikeluarkan di Malaysia;
- (b) suatu sistem yang memperuntukkan penerimaan nilai tertinggi antara dua nilai pilihan;
- (c) harga barang-barang di pasaran tempatan negara pengeluar;
- (d) kos pengeluaran, selain nilai campuran yang telah ditentukan bagi barang-barang yang sama atau barang-barang yang serupa mengikut peraturan 9;
- (e) harga barang-barang bagi eksport ke negara selain Malaysia, melainkan jika barang-barang itu diimport ke Malaysia;
- (f) nilai kastam minimum; atau
- (g) nilai arbitrari atau rekaan.

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**Nilai minimum**

11. Walau apa pun apa-apa peruntukan lain di bawah Peraturan-Peraturan ini, Menteri boleh menetapkan suatu nilai minimum ke atas barang-barang yang diimport.

**Penjelasan bertulis mengenai kaedah penilaian atas permintaan bertulis pengimport**

12. Pengimport hendaklah mempunyai hak, atas permintaan bertulis, mendapatkan penjelasan secara bertulis daripada pegawai kastam yang hak mengenai bagaimana nilai kastam barang-barang yang diimportnya ditentukan.

**Kadar pertukaran**

13. (1) Nilai kastam barang-barang yang diimport hendaklah dihitung dalam Ringgit Malaysia dan apa-apa penukaran wang untuk menentukan nilai kastam hendaklah berdasarkan kepada kadar pertukaran yang dikeluarkan oleh Ketua Pengarah.

(2) Kadar penukaran wang adalah kadar yang berkuat kuasa pada masa ditiada dikenakan.

Dibuat 21 Disember 1999.

[Sulit KE. HE. (96) 667/07-16; Perb. 0.9060/62 (SK. 2); PN(PU<sup>3</sup>)580]

Bagi pihak dan atas nama Menteri Kewangan,

CHAN KONG CHOY  
*Timbalan Menteri Kewangan*

**CUSTOMS ACT 1967****CUSTOMS (RULES OF VALUATION) REGULATIONS 1999**

In exercise of the powers conferred by subsection 142(35B) of the Customs Act 1967 [Act 235], the Minister makes the following regulations:

**Citation and commencement**

1. (1) These regulations may be cited as the Customs (Rules of Valuation) Regulations 1999.

(2) These Regulations come into operation on 1 January 2000.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—

“computed value” means the value determined under regulation 9;

“country of export” means the country from which the goods are transported directly to Malaysia or, as the case may be, the country from which the goods are deemed to be transported;

“deductive value” means the value determined under regulation 8;

“goods of the same class or kind” means imported goods that—

- (a) are within a group or range of imported goods produced by a particular industry or industry sector that includes identical goods or similar goods in relation to the goods being valued; and
- (b) for the purposes of—
  - (i) regulation 8, were produced in any country and exported from any country; and
  - (ii) regulation 9, were produced in and exported from the country in and from which the goods being valued were produced and exported;

“identical goods” means imported goods that—

- (a) are the same in all aspects, including physical characteristics, quality and reputation, as the goods being valued, except for minor differences in appearance that do not affect the value of the goods;
- (b) were produced in the country in which the goods being valued were produced; and
- (c) were produced by or on behalf of the person who produced the goods being valued,

but does not include imported goods where engineering, development work, artwork, design work, plans or sketches undertaken in Malaysia were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

“minimum value” means a value which is predetermined under regulation 11 as the lowest acceptable value;

“price paid or payable” in relation to any goods, means the aggregate of all amounts paid or payable by the buyer to or for the benefit of the seller in respect of the goods;

“produce” includes grow, manufacture or mine;

“similar goods” means imported goods that—

- (a) closely resemble the goods being valued in respect of materials, components and parts and characteristics and are functionally and commercially interchangeable with the goods being valued having regard to the quality and reputation of the goods and the goods being valued;

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(b) were produced in the country in which the goods being valued were produced; and

(c) were produced by or on behalf of the person who produced the goods being valued,

but does not include imported goods where engineering, development work, artwork, design work, plans or sketches undertaken in Malaysia were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

“sufficient information” in respect of the determination of any amount, difference or adjustment, means objective and quantifiable information that clearly establishes the accuracy of the amount, difference or adjustment;

“transaction value” means the value determined under regulations 4 and 5.

(2) For the purposes of regulation 4, where the degree of relationship is relevant, the proximity of blood of collateral descendants in the relationship shall be determined by taking a step, upward or downward, or both upward to a common ancestor and downward from such ancestor.

(3) For the purposes of regulations 4, 6 and 7, the sale of goods for export to Malaysia shall be the last contracted sale prior to importation of the goods into Malaysia and the buyer of the said goods is in Malaysia.

(4) For the purposes of these Regulations, persons shall be deemed to be related only if—

- (a) they are officers or directors of one another's business;
- (b) they are legally recognised partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls, or holds five per cent or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

(5) For the purposes of these Regulations, persons shall be deemed to be members of the same family if—

- (a) they are connected by blood relationship within the fourth degree of relationship;
- (b) they are married to one another or if one is married to a person who is connected within the fourth degree of relationship to the other; or

(c) one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other.

(6) For the purposes of these Regulations, where there are no goods that were produced by or on behalf of the person who produced the goods being valued and are identical goods or similar goods, goods that were produced by or on behalf of a different person and that are otherwise identical goods or similar goods shall be deemed to be identical goods or similar goods, as the case may be.

(7) For the purposes of these Regulations, charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods shall not be regarded as part of the customs value in any case where—

- (a) the charges are distinguished from the price actually paid or payable for the goods;
- (b) such goods are actually sold at the price declared as the price actually paid or payable; and
- (c) the buyer, if required, can demonstrate that—
  - (i) the financing arrangement was made in writing; and
  - (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.

#### Order of application of rules of valuation

3. (1) Subject to subregulation (2), the customs value of imported goods shall be valued on the basis of the transaction value of the goods as the primary basis of valuation as set out under regulation 4.

(2) Where the proper officer of customs is of the opinion that the customs value of the goods cannot be valued under subregulation (1) due to the fact that—

- (a) the proper officer of customs has reason to doubt the truth or accuracy of the declared customs value and after having sought further explanation or other evidence that the declared customs value represents the total amount actually paid or payable for the imported goods, the proper officer of customs is still not satisfied that the customs value can be determined under regulation 4; or
- (b) where any adjustment under regulation 5 cannot be made because of the lack of sufficient information,

the proper officer of customs may then value the goods on the basis of the first of the following values as provided in subregulation (3).

(3) The order of valuation are as follows:

- (a) the transaction value of identical goods under regulation 6;