

[REPUBLIC ACT NO. 8181, March 28, 1996]

AN ACT CHANGING THE BASIS OF DUTIABLE VALUE OF IMPORTED ARTICLES SUBJECT TO AN AD VALOREM RATE OF DUTY FROM HOME CONSUMPTION VALUE (HCV) TO TRANSACTION VALUE (TV), AMENDING FOR THE PURPOSE SECTION 201 OF TITLE II, PART 1 OF PRESIDENTIAL DECREE NO. 1464, OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 201 of Title II, Part 1 of the Tariff and Customs Code of the Philippines, as amended, is hereby further amended to read as follows:

"SEC. 201. *Basis of Dutiable Value.* – The dutiable value of an imported article subject to an *ad valorem* rate of duty shall be the transaction value, which shall be the price actually paid or payable for the goods when sold for export to the Philippines, adjusted by adding the following to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods:

- a. Commissions and brokerage fees (except buying commissions); cost of containers; and the cost of packing, whether for labour or materials;
- b. The value of materials, components, parts and items incorporated in the imported goods; tools; dies; moulds and similar items used in the production of the imported goods; materials consumed in the production of imported goods; and engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Philippines and necessary for the production of imported goods, where such goods and services are supplied directly or indirectly by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable;
- c. The amount of royalties and license fees that the buyer must pay, either directly or indirectly, in connection with the goods being valued, as a condition of sale of the goods to the buyer;
- d. The value of any part of the 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 from the port of exportation to the port of entry in the Philippines;
- f. Loading, unloading and handling charges associated with the transport of the imported goods from the country of exportation to the port of entry in the Philippines; and
- g. The cost of insurance.

Where the Commissioner of Customs has reason to doubt the truth or accuracy of the declaration or particulars or documents provided in support of declared value of the importation, he may require the importer to give further explanation thereof and to submit additional documents or other evidence to show that the declared value represents the total amount paid or payable for the imported goods.

If after receiving the explanation of the importer the Commissioner of Customs still has reasonable doubt as to the accuracy of the declared value, the Commissioner of Customs may proceed with the alternative methods specified hereafter, as follows:

The dutiable value shall be the transaction value of identical goods sold for export to the Philippines at or about the date of exportation of the goods being valued;

If the dutiable value cannot be determined under the preceding method, it shall be the transaction value of similar goods sold for export to the Philippines at or about the date of exportation of the goods being valued;

If the dutiable value still cannot be determined through the successive application of the two immediately preceding methods, the order of succession of the following methods may be reversed upon request of the importer unless the Commissioner of Customs deems that he will experience real difficulties in determining the dutiable value by using the computed value, in which case, the Commissioner of Customs may refuse such a request subject to the provisions of the General Agreement on Tariffs and Trade (GATT) 1994 and the Uruguay Round Final Act, in which event the valuation of the imported goods shall be determined as indicated hereunder;

1. The unit price at which the imported goods or identical or similar imported goods are sold domestically, in the same condition as when imported, in the greatest aggregate quantity, to persons not related to the seller, at or about the time of the importation of the goods being valued, subject to the applicable deductions as provided under the GATT 1994 and the Uruguay Round Final Act; or
2. The computed value which shall be the sum of:
 - a. The cost or value of raw materials employed in producing the imported goods;
 - b. The amount for profit and general expenses equal to the amount for profit and general expenses as reflected in the sale of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for the Philippines; and

- c. The freight, insurance fees and other transportation expenses for the importation of the goods;

If the dutiable value cannot be determined under any of the preceding methods described above, it shall be determined by using other reasonable means consistent with the principles and general provisions of GATT 1994, the agreement on the implementation of Article VII of the General Agreement on Tariffs and Trade as contained in the Uruguay Round Final Act, and on the basis of data available in the Philippines.

The correct dutiable value of the imported goods referred to above shall be ascertained by the Commissioner of Customs from reports of revenue or commercial attaches or other Philippine diplomatic officers and from such other sources of information as may be available to the Bureau of Customs. Such values shall be established and published by the Commissioner of Customs from time to time, and such values shall be binding upon the importers and the Bureau of Customs until changed and new value or values are similarly established and published.

Values shall be published in at least one (1) newspaper of general circulation and other publications readily available to the public. Any importer or other interested party who is dissatisfied with the published value shall have fifteen (15) days from the date of publication of such published value the opportunity to file a protest on the questioned value and the Commissioner of Customs shall resolve the protest within fifteen (15) days from receipt of such protest, either by amending the published value or retaining the same. Whatever his decision may be must likewise be published.

If, in the course of determining the dutiable value of imported goods, it becomes necessary to delay the final determination of such dutiable value, the importer may secure the release of the imported goods upon the filing of a bond which shall solely be in cash, in an amount equivalent to the imposable duties and taxes on the imported goods in question plus twenty five percent (25%) thereof, conditioned upon the payment of customs duties and taxes for which the imported goods may be liable: *Provided, however,* That goods the importation of which is prohibited by law shall not be released under any circumstance whatsoever.

For purposes of the preceding paragraphs, the terms:

1. "Reasonable doubt" shall refer to any condition that creates a probable cause to make the Commissioner of Customs believe in the inaccuracy of the invoice value of imported goods as reflected by the importer in his customs declaration, for valuation purposes. Such condition may include but is not limited to any of the following situations:
 - a. If the sale or price is subject to some consideration for which a value cannot be determined with respect to the goods being valued such as: