

Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Ministry of Finance
Customs Department

No. 2401/CD
Vientiane Capital, date: 29 September 2010

**Instruction of the Director General of the Customs Department
on Customs Valuation for Imported Goods**

- Pursuant to Law on Customs No.05/NA, dated 20 May 2005.
- Pursuant to Prime Minister's Decree No.362/MP, dated 19 October 2007 on the Implementation of the Law on Customs.
- Pursuant to Instructions of the Minister of Finance No.1398/MOF, dated 16 June 2010 on the Customs Valuation for Imports.

For the successful and uniform implementation and guidance of the implementation methods on customs valuation for imports nationwide.

The Director General of the Customs Department issues an instruction as follows:

Article 1. Objectives

This Instruction provides guidance for the implementation of Article 7 of the General Agreement on Tariffs and Trade (GATT) 1994 of the World Trade Organization, Article 13 of the Law on Customs No.05/NA, dated 20 May 2005, Article 4 of the Prime Minister's Decree No.362/PM, dated 19 October 2007 and Instruction of the Minister of Finance No.1398/MOF, dated 16 June 2010 to ensure correct and strict implementation of customs valuation throughout the country by individuals and legal entities importing or exporting goods through customs border checkpoints in Lao PDR.

Article 2. General Provisions

The application of customs valuation for imported goods of GATT 1994 of the WTO shall comply with [through] the provisions of Article 4 of the Decree of the Prime Minister No.362/PM, dated 19 October 2007 on the Implementation of the Law on Customs.

Article 3. Exchange Rate

The exchange rate for foreign currency to be used for the calculation of customs value shall be applied according to the provisions of Article 22 of the Law on Customs No.05/NA, dated 20 May 2005.

Article 4. Generally Accepted Accounting Principles

The application of generally accepted accounting principles refers to the recognized or certified authority of the country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, what information should be disclosed and how it should be disclosed and which financial statements should be prepared.

For the purposes of this Article, the customs administration shall utilize information that is consistent with generally accepted accounting principles in the country. For example, the determination of usual profit and general expenses under the provisions of Article 13 of this Instruction shall utilize information that is consistent with generally accepted accounting principles of the country of importation. On the other hand, the determination of usual profit and general expenses under the provisions of Article 15 of this Instruction shall utilize information that is consistent with generally accepted accounting principles of the country of production. As a further example, the determination of an element provided for in paragraph 2 (b) (2) of Article 6 of this Instruction undertaken in the country of importation shall utilize information that is consistent with generally accepted accounting principles of that country.

2. The transaction value of imported goods shall be determined in accordance with detailed methods as follows:

For cases in which there is no transaction value according to the provisions of paragraph 2.1 below, the customs value shall be determined according to the provisions of Articles 4 to 9 of this Instruction [in] hierarchical order:

- 2.1. Transaction value of imported goods is the price actually paid or payable for the goods when sold for export to Lao PDR adjusted in accordance with the provisions of Article 10 of this Instruction;
- 2.2. Transaction value of imported goods as defined under Article 3 paragraph 2.1 above is acceptable only [under the following conditions]:
 - a. That there are no restrictions as to the disposition or use of goods by the buyer other than restrictions which:
 - are imposed or required by law or by government authorities in the country of importation;
 - limit the geographical area in which the goods may be resold;
 - do not substantially affect the value of the goods.
 - b. That the sale or price is not subject to conditions or considerations for which a value cannot be determined with respect to the goods being valued; or
 - c. That part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with provisions in Article 10 of this Instruction;

- d. That the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of paragraph (e) and (f) below;
- e. In case the buyer and seller are related, the transaction value is acceptable only if the actual inspection of imported goods proves that such relationship has no influence on the transaction price;
- f. To demonstrate that such relationship does not have influence on transaction value between related persons, the importer shall demonstrate evidence that the transaction value being valued closely approximates one of the following occurring at or about the same time of which the value is being assessed:
 - the transaction value in sales to unrelated buyers of identical or similar goods in Lao PDR;
 - Deductive value from identical or similar goods;
 - Computed value from identical or similar goods.
- g. In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity level or elements enumerated in Article 10 of this Instruction and costs incurred by the seller in sales in which the seller and the buyer are not related.

Article 4. Transaction Value of Identical Goods

If the customs value cannot be determined under the provisions of Article 3 paragraph 2.2, the transaction value of identical goods that are actually made at the same commercial and quantity levels can be used to determine the customs value of imported goods as follows:

1. Where no sale of such identical goods is found, the transaction value of identical goods sold at a different commercial level or both levels shall be used and adjusted appropriately, [taking into] take account the differences attributable to the commercial level or to the or both, whether the adjustment leads to an increase or decrease in the value; and,
2. Where the costs and charges referred to in Article 10 paragraph 2 of this Instruction are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported and the identical goods in question arising from differences in distances and modes of transport.

Article 5. Transaction Value of Similar Goods

1. If the customs value of imported goods cannot be determined under the provisions of Article 3, paragraph 2.2 or Article 4, paragraph 1 of this Instruction, the customs value shall be the transaction value of similar goods sold for export and import into Lao PDR at or about the same time as the goods being valued.

2. The provisions of Article 4 paragraphs 1 and 2 mentioned above shall also be applied to similar goods.
 - b. The sale or sale price shall not be subject to certain conditions or considerations that makes it unable to determine customs value of goods being valued; or
 - c. Where no part of the amount received from resale, distribution or use of goods by the buyer which leads to the increase either direct or indirect revenue, except [where] there is an appropriate price adjustment under the provisions of Article 10 of the Instruction of the Minister of Finance No.1398/MOF, dated 16 June 2010.
 - d. Buyer and seller are not related, or where the buyer and seller are related, the customs authorities can accept the transaction value of goods under the provisions of paragraph 2 (a) and 2 (b) below.

2 (a) where buyer and seller are related under the provisions of Article 2 of the Instruction of the Minister of Finance No.1398/MOF, dated 16 June 2010, in case the buyer and seller are related, the transaction value is acceptable only if the actual inspection of imported goods proved that such relationship has no influence on the transaction price .

(b) to demonstrate that such relationship has no influence on the transaction value between related persons, the importer shall demonstrate evidence that the transaction value of goods being valued closely approximates one of the following occurring at or about the same time of goods being valued:

- 1) the transaction value in sales to unrelated buyers of identical or similar goods in Lao PDR;
 - 2) deductive value of identical or similar goods;
 - 3) computed value of identical or similar goods.
- e. In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in paragraphs 2, 3, 4 and 5 of Article 6 of this Instruction and costs occurred in which the buyer and seller are not related.

Article 8. The Application of Transaction Value of Imported Goods

1. Meanings for the application of Article 6:
 - a. The price actually paid or payable is the overall payment made or to be made by the buyer or for the benefits of the seller of imported goods. The payment is not necessarily made by the transfer of money. The payment could be made by way of letters of credit or negotiable instruments. Payment may be made directly or indirectly. An example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owed by the seller.
 - b. Activities undertaken by the buyer on the buyer's own account, other than those for which an adjustment is provided in Article 7, are not considered to be an indirect payment to the seller, even though they might be regarded as of

benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the customs value.

- c. The customs value shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods:
 - 1) charges for construction, assembly, erection, maintenance or technical assistant, undertaken after the importation of a good such as an industrial plant, machinery or equipment;
 - 2) the cost of transportation after importation;
 - 3) duties and taxes of the country of importation.
 - d. The price actually paid or payable refers to the price of imported goods. Thus the flow of dividends or other payments from the buyer to seller that do not relate to the imported goods are not part of the customs value.
2. The application of paragraph 2(a)(1) of Article 6: the term “buying commissions” means fees paid by an importer to the importer’s agent for the service of representing the importer abroad in the purchase of the goods being valued.
 3. The application of paragraph 2(b)(2) of Article 6:
 - a. There are two factors in the apportionment of the elements specified in paragraph 2(b)(2) of Article 6 to the imported goods. The value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements shall be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.
 - b. Concerning the value of the element, if the importer acquires the element from a seller not related to the importer at a given cost, the value of the element is the cost. If the element was produced by the importer or by a person related to the importer, its value would be the cost of producing it. If the element had been previously used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or production would have to be adjusted downward to reflect its use in order to arrive at the value of the element.
 - c. Once a value has been determined for the element, it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment if the importer wishes to pay duty on the entire value at one time. As another example, the importer may request that the value be apportioned over the number of units produced up to the time of their first shipment. As a further example, the importer may request that the value be apportioned over the entire anticipated production

where contracts or firm commitments exist for that production. The method of apportionment used will depend upon the documentation provided by the importer.

- d. As an illustration of the above, an importer provides the producer with a mould to be used in the production of an imported good and contracts with the producer to buy 10,000 units. By the time of arrival of the first shipment of 1,000 units, the producer has already produced 4,000 units. The importer may request the customs administration to apportion the value of the mould over 1,000 units, 4,000 units or 10,000 units.
4. The application of paragraph 2(b)(4) of Article 6:
- a. Additions for the elements specified in paragraph 2(b)(4) of Article 6 should be based on objective and quantifiable information. In order to minimize burdens for both importers and customs administration in determining the value to be added, data readily available in the buyer's commercial record system should be used so far as possible.
 - b. For those elements supplied by the buyer [and] which [were] purchased or leased by the buyer, the addition would be the cost of the purchase or the lease. No addition shall be made for those elements other than the cost of obtaining copies of them.
 - c. The ease with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice as well as its accounting methods.
 - d. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design center outside the country of importation in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of Article 6 of this Instruction.
 - e. In another case, a firm may carry the cost of the design center outside the country of importation as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of Article 6 of this Instruction by apportioning total design center costs over the total production benefiting from the design center and adding such apportioned cost on a unit basis to imports.
 - f. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.
 - g. In cases where the production of the elements in question involves a number of countries and over a period of time, the adjustment should be limited to the value actually added to the element outside the country of importation.
5. The application of paragraph 2(c) of Article 6:

- a. The royalties and license fees referred to in paragraph 2 (c) of Article 6 may include payments with respect to patents, trademarks and copyrights. However, the charges for the right to reproduce the imported goods in the country of importation shall not be added to the price actually paid or payable for the imported goods in determining the customs value.
 - b. Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the country of importation of the imported goods.
6. The application of paragraph 4 of Article 6:

Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of Article 6, the transaction value cannot be determined. As an illustration of this, a royalty is paid on the basis of the price for a sale in the importing country of a litre of a particular product that was imported by the kilogram and made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

7. The interpretation of paragraph 1 (a) (3) of Article 7:

Among restrictions which would not render a price actually paid or payable are restrictions which do not substantially affect the value of the goods. An example of such restrictions would be the case where a seller requires a buyer of automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.

8. The interpretation of paragraph 1 (b) of Article 7:
- a. If the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued, the transaction value shall not be acceptable for [when]:
 - the seller establishes the price of the imported good on condition that the buyer will also buy other goods in specified quantities;
 - the price of the imported good is dependent upon the price or prices at which the buyer of the imported good sells other goods to the seller of the imported good;

- the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that the seller will receive a specified quantity of the finished goods.
 - b. However, conditions or considerations relating to the production or marketing of the imported goods shall not be the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in the country of importation shall not be the transaction value for the purposes of Article 6 of this Instruction. Likewise, if the buyer undertakes on the buyer's own account, even though by agreement with the seller, activities relating to the marketing of the imported goods, the value of these activities is not part of the customs value nor shall such activities [be part] of the transaction value.
9. Interpretation of paragraph 2 of Article 7:
- a. Provisions of paragraph 2 (a) and 2 (b) of Article 7 of this Instruction provide different means of establishing the acceptability of a transaction value.
 - b. Paragraph 2(a) provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the customs value provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the customs administration has no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the customs administration may have previously examined the relationship, or it may already have detailed information concerning the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price.
 - c. Where the customs administration is unable to accept the transaction value without further inquiry, it should give the importer an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale. In this context, the customs administration should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although related under the provisions of Article 13 of this Instruction, buy from and sell to each other as if they were not related, this would demonstrate that the price

had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sales to buyers who are not related to the seller, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period of time (e.g. on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.

- d. Paragraph 2(b) provides an opportunity for the importer to demonstrate that the transaction value closely approximates a "test" value previously accepted by the customs administration and therefore, such a value is acceptable. Where a test under paragraph 2(b) is met, it is not necessary to examine the question of influence under paragraph 2(a). If the customs administration has already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in paragraph 2(b) has been met, there is no reason for it to require the importer to demonstrate that the test can be met. In paragraph 2(b) the term "unrelated buyers" means buyers who are not related to the seller in any particular case.

10. The interpretation of paragraph 2 (b) of Article 7:

A number of factors must be taken into consideration in determining whether one value "closely approximates" to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and, whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the "test" values set forth in paragraph 2(b) of Article 7 of this Instruction.

Article 9. Transaction Value of Identical Goods

1. (a) If the customs value of imported goods cannot be determined under the provisions of Articles 6 and 7 of this Instruction, the customs value shall be the transaction value of identical goods sold for export to the same country of importation and exported at or about the same time as the goods being valued.
(b) In applying this Article, 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. Where no such sale 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 adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in paragraph 2 (e) of Article 6 in this Instruction are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.
3. If, in applying this Article, more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Article 10. Application of the Transaction Value of Identical Goods

1. In applying Article 9 of this Instruction, wherever possible, the customs administration shall use a sale of identical goods at the same commercial level and in substantially the same quantities as the goods being valued. Where such sale is found, a sale of identical goods that takes place under any one of the following three conditions may be applied:
 - a sale at the same commercial level but in different quantities.
 - a sale at a different commercial level but in substantially the same quantities; or
 - a sale at a different commercial level and in different quantities.
2. Having found a sale under any one of these three conditions, adjustments will then be made, as the case may be, for:
 - quantity factors only;
 - commercial level factors only; or
 - both commercial level and quantity factors.
3. The expression "and/or" allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.
4. For the purposes of Article 9, the transaction value of identical imported goods means a customs value, adjusted as provided for in paragraphs 1(b) and 2, which has already been accepted under Article 9.
5. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustments, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure,

however, the determination of a customs value under the provisions of Article 9 is not appropriate.

Article 11. Transaction Value for Similar Goods

1. (a) if the customs value of the imported goods cannot be determined under the provisions of Articles 6 and 9 of this Instruction, [the customs value] shall be the transaction value of similar goods sold for export to the same country of importation and exported at about the same time as goods being determined.
(b) In applying this Article, 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. Where no such sale is found, the transaction value of similar goods sold at a different commercial level and/or in different quantities, shall be used on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.
2. Where the costs and charges referred to in paragraph 2 (e) of Article 6 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.
3. If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Article 12. The Application of Transaction Value of Similar Goods

1. In applying Article 11 above, wherever possible, the customs administration shall use a sale of similar goods at the same commercial level and in substantially same quantities as the goods being valued. Where no such sale is found, a sale of similar goods that takes place under any one of the following three conditions may be applied:
 - a sale at the same commercial level but in different quantities;
 - a sale at a different commercial level but in substantially the same quantities;
 - or
 - a sale at a different commercial level and in different quantities.
2. Having found a sale under any one of these three conditions, adjustments will then be made, as the case may be, for:
 - quantity factors only;
 - commercial level factors only; or
 - both commercial level and quantity factors.
3. The expression "and/or" allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.

4. For the purpose of Article 11 of this Instruction, the transaction value of similar imported goods means a customs value, adjusted as provided for in paragraphs 1(b) and 2 of Article 11 of this Instruction.
5. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only similar imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Article 11 is not appropriate.

Article 13. Deductive Method

1. If the imported goods or identical or similar imported goods are sold in Lao PDR in the condition as imported, the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following:
 - a. either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in Lao PDR of the same class or kind;
 - b. the usual costs of transport and insurance and associated costs incurred within Lao PDR;
 - c. the customs duties and other national taxes payable in the Lao PDR.
2. If neither the imported goods nor identical nor similar imported goods are sold in Lao PDR at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of paragraph 1(b) and 1 (c) of this Article, be based on the unit price at which the imported goods or identical or similar imported goods are sold in Lao PDR in the condition as imported at the earliest date after the importation of the goods being valued but before 90 days after such importation.
3. If the imported goods nor identical nor similar imported goods are not sold in Lao PDR and if the importer requested for or the customs administration considers appropriate.
 - a. The customs value shall be based on the unit price at which the imported goods, after the processing, are sold in the greatest aggregate quantity to persons not related to seller;

- b. In determining the customs value, shall deduct [from the transactions value] the additional costs occurring from processing and other expenses as defined under the provisions of (a), (b) and (c) of paragraph (1) of this Article.

Article 14. Application of Deductive Method:

1. The unit price of goods sold in the greatest aggregate quantity means the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.
2. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	Unit price	Number of sales	Total quantity sold
1-10	100	10 sales 5 units 5 sales 3 units	65
11-25	95	5 sales 11 units	55
Over 25	90	1 sale of 30 units 1 sale of 50 units	80

The largest number of units sold at a price is 80; therefore, the unit price in the largest aggregate quantity is 90.

3. In the following example, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.
4. A third example would be the following situation where various quantities are sold at various prices.
 - a. Sales:

Total sale	Unit price
40 units	100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

b. Totals	Unit price
Total quantity sold	
65	90
50	95
60	100
25	105

In the above example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is 90.

5. Any sale in the importing country, as described in paragraph 1 above, to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in paragraph 2 (b) of Article 6, should not be taken into account in establishing the unit price for the purposes of Article 13 of this Instruction.
6. It should be noted that "profit and general expenses" referred to in paragraph 1 of Article 13 should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by or on behalf of the importer unless the importer's figures are inconsistent with those obtained in sales in the country of importation of imported goods of the same class or kind. Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer.
7. The "general expenses" include direct and indirect marketing value of goods.
8. Local taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of paragraph 1(c) of Article 13 shall be deducted under the provisions of paragraph 1(a) of Article 13.
9. In determining either the commissions or the usual profits and general expenses under the provisions of paragraph 1 of Article 13, the question whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in the country of importation of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 4 of this Instruction, "goods of the same class or kind" includes goods imported from the same country as the goods being valued as well as goods imported from other countries.
10. For the purposes of paragraph 1(b) of Article 13, the "earliest date" shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.
11. Where the method in paragraph 3 of Article 13 of this Instruction is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.
12. It is recognized that the method of valuation provided for in paragraph 3 of Article 13 would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty. On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in the country of importation that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

Article 15. Computation [Computed Value] Method

1. The customs value of imported goods under the provisions of this Article is a computed value which shall consist of the sum of:
 - 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 which are made by producers in the country of exportation for export to Lao PDR; and
 - c. the cost or value of all other services necessary in paragraph 2 (e) of Article 6 of this Instruction.
2. No Member may require or compel any person not resident in its own territory to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value under the provisions of this Article may be verified in another country by the authorities of the country of importation with the agreement of the producer and provided they give sufficient advance notice to the government of the country in question and the latter does not object to the investigation.

Article 16. The Application of Computation [Computed Value] Method:

1. As a general rule, the customs value is determined under this Instruction on the basis of information readily available in the country of importation. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside the country of importation. Furthermore, in most cases the producer of the goods will be outside the jurisdiction of the authorities of the country of importation. The use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the authorities of the country of importation the necessary costings and to provide facilities for any subsequent verification which may be necessary.
2. The "cost or value" referred to in paragraph 1(a) of Article 15 of this Instruction is to be determined on the basis of information relating to the production of the goods being valued and supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.
3. The "cost or value" shall include the cost of elements specified in paragraphs 2 (a)(2) and (3) of Article 6 of this Instruction. It shall also include the value, apportioned as appropriate under the provisions of the relevant note to Article 8 of GATT 1994 of WTO, of any element specified in paragraph 2(b) of Article 6 which has been supplied directly or indirectly by the buyer for use in connection with the production

- of the imported goods. The value of the elements specified in paragraph 2(b)(4) of Article 6 of this Instruction which are undertaken in the country of importation shall be included only to the extent that such elements are charged to the producer. It is to be understood that no cost or value of the elements referred to in this paragraph shall be counted twice in determining the computed value.
4. The "amount for profit and general expenses" referred to in paragraph 1(b) of Article 15 of this Instruction is to be determined on the basis of information supplied by or on behalf of the producer unless the producer's figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation.
 5. It should be noted in this context that the "amount for profit and general expenses" has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and the producer's general expenses are high, the producer's profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being launched in the country of importation and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate a low profit on sales of the imported goods because of particular commercial circumstances, the producer's actual profit figures should be taken into account provided that the producer has valid commercial reasons to justify them and the producer's pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in the country of importation and accept a low profit to maintain competitiveness. Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.
 6. Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the authorities of the importing country shall inform the importer, if the latter so requests, of the source of such information, the data used and the calculations based upon such data, subject to the provisions of Article 10 of GATT 1994 of WTO.
 7. The "general expenses" referred to in paragraph 1(b) of Article 15 of this Instruction covers the direct and indirect costs of producing and selling the goods for export which are not included under paragraph 1(a) of Article 15 of this Instruction.
 8. Whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of Article 6 of GATT 1994 of WTO, sales for export to the country of importation of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of

Article 6 of GATT 1994 of WTO, "goods of the same class or kind" must be from the same country as the goods being valued.

Article 17. Customs Value by Reasonable Means

1. If the customs value of the imported goods cannot be determined under the provisions of Articles 6 through 16 of this Instruction, inclusive, the customs value shall be determined using reasonable means consistent with the principles and provisions of this Instruction and provisions of Article 7 of GATT 1994 of WTO and on the basis of data available in the country of importation.
2. No customs value shall be determined under the provisions of this Article on the basis of:
 - the selling price of goods produced in Lao PDR;
 - a system which provides for the acceptance for customs purposes of the higher of two alternative values;
 - the price of goods on the domestic market of the country of exportation;
 - the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 15 of this Instruction;
 - the price of the goods for export to a country other than Lao PDR;
 - minimum customs values; or
 - arbitrary or fictitious values.
3. If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of this Article and the method used to determine such value.

Article 18. The Application of Customs Value by Reasonable Means

1. Customs value established under provisions of Article 17 above shall be based on the customs value previously accepted by the customs administration.
2. The methods of valuation to be employed under Article 17 of this Instruction shall be those laid down in Articles 6 through 16 of this Instruction, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Article 17 of this Instruction.
3. Some examples of reasonable flexibility are as follows:
 - a. Identical goods - the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of Articles 13 and 15 of this Instruction could be used.
 - b. Similar goods - the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly

interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Articles 13 and 15 could be used.

- c. Deductive method - the requirement that the goods shall have been sold in the "condition as imported" in paragraph 2 of Article 13 of this Instruction could be flexibly interpreted; the "90 days" requirement could be administered flexibly.

Article 19. Maintaining Customs Declaration Information

All information which is by nature confidential or which is provided on a confidential basis for the purposes of customs valuation shall be treated as strictly confidential by the authorities concerned who shall not disclose it without the specific permission of the person or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.

Article 20. Publication of Legislation and Regulations

Legislation and regulations of general application giving effect to this Instruction shall be published in conformity with Article X of GATT 1994.

Article 21. Guarantee of Customs Value

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of such customs value, the importer of the goods shall nevertheless be able to withdraw them from customs if, where so required, the importer provides sufficient guarantee in the form of a surety, a deposit or some other appropriate instrument, covering the ultimate payment of customs duties for which the goods may be liable.

Article 22. Implementation

Line divisions of the Customs Department, Regional Customs, Border Customs Checkpoints and all concerned sectors, individuals and legal entities who are operating import business shall be informed and strictly implement this Instruction in accordance with their own responsibilities.

Article 23. Effectiveness

This Instruction is effective from 01 October 2010.

Director General of Customs Department

Stamped and signed
Santiphap Phomvihanh