

<p><b>THE GOVERNMENT</b></p> <p>_____</p> <p>No.40/2007/ND-CP</p>	<p><b>SOCIALIST REPUBLIC OF VIETNAM</b></p> <p><b>Independence – Freedom - Happiness</b></p> <p>_____</p> <p><i>Hanoi, March 16, 2007</i></p>
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## **DECREE OF THE GOVERNMENT**

### **Providing for customs valuation of imported and exported goods**

#### **THE GOVERNMENT**

Pursuant to the Law on Organization of the Government dated December 25, 2001;

Pursuant to Import Tax and Export Tax Law No. 45/2005/QH11 dated June 14, 2005;

Pursuant to Customs Law No. 29/2001/QH10 dated June 29, 2001 and Law No. 42/2005/QH11 dated June 14, 2005 amending and supplementing a number of articles of the Customs Law;

Pursuant to Resolution No. 71/2006/QH11 dated November 29, 2006 of the XI<sup>th</sup> National Assembly. The 10<sup>th</sup> session, ratifying the Protocol on Vietnam's Accession to the World Trade Organization;

At the proposal of the Minister of Finance,

#### **DECREES:**

#### **Chapter I**

#### **GENERAL PROVISIONS**

##### **Article 1.**

Governing scope and objects of application

1. This Decree provides for customs valuation for the purpose of calculating tax and making statistics on imported and exported goods.

2. Import and export goods are objects of application of this Decree.
3. Where a treaty to which Vietnam is a contracting party contains provisions different from those of this Decree, that treaty prevails.

## **Article 2.**

### Interpretation of terms

1. "Transaction value" means the price actually paid or to be paid by the buyer for sold goods to be exported to Vietnam, adjusted under the provisions of Article 13 of this Decree.
2. "Actually paid or to be-paid price" means the total money amount actually paid or to be paid directly or indirectly by the buyer to the seller for the purchase of imported goods.
3. "Sale for export to Vietnam" means a commercial activity whereby goods are transferred from the seller to the buyer through Vietnamese border gates or borders or from non-tariff zones into the domestic market, for the purpose of transferring goods ownership from the seller to the buyer.
4. "Export date" used in the method of transaction valuation of identical imported goods and the method of transaction valuation of similar imported goods is the date when goods are loaded onto means of transport according to the bill of lading; for goods transported by land, the export date is the date of registration of the customs declaration.
5. "The first border gate of importation" means the port of destination stated in the bill of lading. For international transport by land, railway or river, the first border gate of importation" is the port of destination stated in the contract.
6. "Consultation" means the exchange and supply of information related to the determination of the declared dutiable value between customs offices and customs declarants upon request of customs declarants.
7. "Identical imported goods" means goods which are the same in all aspects, including physical characteristics, quality and reputation, made in the same country, by the same producer or by another producer authorized by the former, and are imported into Vietnam.
8. "Similar imported goods " means goods which are not alike in all aspects but have the same basic characteristics, same raw materials or materials, same functions and are interchangeable in commercial transactions; made in the same country, by the same producer or by another producer authorized by the former, and are imported into

Vietnam.

9. "Sale price calculated based on the largest sales quantity" referred to in the method of determining the dutiable value on the basis of the deductible value means the price at which goods have been sold with the largest total quantity in transactions of selling goods to buyers that have no special relationship with the seller at the first trade level after the importation.

10. "The earliest day after the importation" referred to in the deduction method is the day when goods are sold in a quantity sufficient for the formation of a unit price (at least equal to 10% of the quantity of this goods item in the imported goods lot).

11. "In the conditions as when imported" referred to in the method of determining the dutiable value on the basis of the deductible value means goods whose shapes, characteristics, properties and utilities are not altered or whose value is not increased or decreased under any impact after the importation.

12. "Goods of the same class or category " referred to in the method of determining the dutiable value on the basis of the deductible value means goods belonging to a group or a frame group of commodity items made by the same producer or an industry, including identical items and similar items.

13. The buyer and the seller have special relationships when:

- a) They are employees or directors of another enterprise;
- b) They are partnership members, contributing capital in legally recognized businesses;
- c) They are employer and employee;
- d) The seller has the power to control the buyer or vice versa;
- e) They are both controlled by a third party;
- f) They both control a third party.

A person having the power to control another person as defined at Points d, e and f, Clause 9 of this Article is the person who can directly or indirectly restrict or instruct the other person.

g) They have the following family ties:

- Husband and wife;

- Parents and children recognized by law;
- Grandparents and their grandchildren who have blood ties;
- Aunts, uncles and nephews, nieces who have blood ties;
- Siblings;
- In-law brothers, sisters.

h) A third party who owns, controls or holds 5% or more of the voting shares of both parties;

i) Parties associated in business with one party being the sole agent, sole distributor or sole transferor of the other party shall be considered having a special relationship if such relationship is compliant with the provisions of Points a thru h above.

### **Article 3.**

The time of customs valuation and tax payment time limit

1. The time of customs valuation is the date the customs declarant registers the customs declaration of imported and exported goods.

2. Where customs valuation is made by the customs office, the time of customs valuation is the date the customs office conducts valuation under the provisions of this Decree.

Customs declarants shall fulfill tax obligations within 10 (ten) working days after the date the customs office issues a document to fix tax amounts based on the price set by the customs office.

### **Article 4.**

Principles and methods of customs valuation for tax calculation purposes

Customs value for the purpose of calculating tax on imported or exported goods (hereinafter referred to as the dutiable value) shall be determined on the following principles and by the following methods:

1. For exported goods, the dutiable value is the sale price at the border gate of exportation (FOB price, DAF price), exclusive of insurance (I) and freight (F).

2. For imported goods, the dutiable value is the actual payable price up to the first border gate of importation and determined by applying in a sequential order the dutiable

value-determining methods specified in Articles 7 thru 12 of this Decree and stopping at the method by which the dutiable value can be determined.

Where customs declarants make written requests, the order of application of the dutiable value-determining methods defined in Article 10 and Article 11 can be interchanged.

3. The Ministry of Finance shall base itself on the dutiable value-determining principles defined in Clause 2 of this Article to specify the determination following cases:

- a) Imported goods have been exempted from import tax and put into use in Vietnam but are later permitted by competent state agencies for transfer or change of the previous import tax exemption purposes;
- b) Imported goods are hired or borrowed goods;
- c) Imported goods are goods brought overseas for repair or processing;
- d) Warranty or sales promotion goods;
- e) Imported goods have no goods sale and purchase contract, including:
  - Goods sold, purchased or exchanged by border inhabitants;
  - Imported goods of passengers on entry; gifts, presents, movable assets in excess of duty-free limits;
  - Imported goods of enterprises providing postal and express mail services.
- f) Other peculiar imported goods.

## **Article 5.**

Customs value for statistical purposes

1. Customs value for the purpose of making statistics on exported and imported goods (hereinafter referred to as the statistical value) shall be determined on the following principles:

- a) For taxable goods, the statistical value is determined on the basis of the dutiable value already determined on the principles and by the methods defined in Article 4 of this Decree;
- b) For goods not liable to tax, not entitled to consideration for tax exemption or of which the dutiable value cannot be determined under the provisions of Article 4 of this Decree, the statistical value is the value declared by customs declarants on the following

principles:

- For imported goods, the statistical value is the sale price at the first border gate of importation (CIF price);
- For exported goods, the statistical value is the sale price at the border gate of exportation (FOB price, DAF price).

2. The Ministry of Finance shall specify the collection, handling, use and archive of statistical values.

## **Article 6.**

Price database

1. Price database means all information related to the inspection and determination of the dutiable value which is supplied by customs declarants to customs offices or collected by customs offices by the time of inspection and determination of the dutiable value. Such information is archived and managed at customs offices.

2. Price database defined in Clause 1 of this Article shall only be used as a tool for risk assessment and may not be used to determine the customs value of imported goods as an alternative value or a mechanism for setting the minimum prices.

3. The Ministry of Finance shall specify the building, management and use of the price database.

## **CHAPTER II**

### **METHODS OF DETERMINING THE DUTIABLE VALUE OF IMPORTED GOODS**

## **Article 7.**

Methods of determining the dutiable value on the basis of the transaction value of imported goods

1. The dutiable value of imported goods is the transaction value.

The transaction value is the price actually paid or to be paid by the buyer for the sold goods to be exported to Vietnam, adjusted under the provisions of Article 13 of this Decree.

The price actually paid or to be paid shall be determined as to be equal to the total

money amount actually paid or to be paid by the buyer directly or indirectly to the seller for the purchase of imported goods, including the following amounts:

a) The purchase price shown on the commercial invoice. Where the purchase price shown on the commercial invoice includes discounts for the imported goods lot in accordance with international trade practices, these discounts shall be deducted for determination of the dutiable value.

The Minister of Finance shall specify the deduction of these discounts from the dutiable value.

b) Money amounts which shall be paid by the buyer but are not yet included in the purchase price shown on the commercial invoice, including:

- Advance payments or deposits for production, sale, purchase, transport and insurance of goods;
- Indirect payments to the seller such as: amounts paid by the buyer to a third party upon request of the seller; amounts paid by debt clearing.

2. Conditions for the application of the method of determining the dutiable value on the basis of the transaction value;

a) The buyer is not restricted in the right to dispose of or use goods after the importation, except for the following restrictions:

- Restrictions on the purchase, sale and use of goods under the provisions of Vietnamese law;
- Restrictions on the places for goods consumption after the importation;
- Other restrictions which, however, do not affect the value of goods.

b) The goods price or sale does not depend on the conditions or payments that make it impossible to determine the value of goods subject to dutiable value determination.

c) After sale of goods, the importer does not have to pay any additional amount from the proceeds from the disposal or use of goods, excluding the adjusted amounts specified at Point d, Clause 1, Article 13 of this Decree;

d) The buyer and the seller have no special relationship, or if they have, such relationship does not affect the transaction value.

### 3. Proving that the special relationship does not affect the transaction value

a) Where the customs office has grounds to believe that such special relationship does affect the transaction value, it shall immediately notify these grounds in writing to the customs declarant.

b) The customs office shall create conditions for the customs declarant to supply more information in order to clarify that the special relationship between the buyer and the seller does not affect the transaction value. If past 30 (thirty) working days after receiving the notice of the customs office, the customs declarant fails to supply more information, the customs office shall determine the dutiable value according to the provisions of Clause 7, Article 15 of this Decree.

c) The special relationship between the buyer and the seller is considered not affecting the transactions value when one of the following two conditions is satisfied:

- The results of inspection of the sale and purchase of imported goods show that these sale and purchase transactions are carried out like those with buyers having no special relationship and such special relationship does not affect the price of goods;

- The transaction value approximates to one of the following values of the goods lot exported to Vietnam on the same day or within 60 days before or after the exportation of the good lots being valued:

- + The transaction value of identical or similar imported goods sold to other importers having no special relationship with the exporter (the seller);

- + The dutiable value of identical or similar imported goods, determined under the provisions of Article 10 of this Decree;

- + The dutiable value of identical or similar imported goods, determined under the provisions of Article 11 of this Decree.

### **Article 8.**

Method of determining the dutiable value on the basis of the transaction value of identical imported goods

1. If the dutiable value of goods imported into Vietnam cannot be determined under the provisions of Article 7 of this Decree, it is the transaction value of identical imported goods of which the dutiable value has been determined under the provisions of Article 7 of this Decree.



2. Identical imported goods must satisfy the following conditions:

- a) Identical imported goods lots are exported to Vietnam on the same day or within 60 days before or after the date of exportation of the goods lot being valued;
- b) Identical imported goods lots are traded on the same level or have been adjusted to the same level of wholesale or retail; have the same quantity or have been adjusted to the same quantity as the goods lot being valued;
- c) Identical imported goods lots have the same transport distance and mode or have been adjusted to the same transport distance and mode as the goods lot being valued.

3. Upon the application of the dutiable value-determining method specified in this Article, only if there is no imported goods lot made by the same producer, shall the goods lots made by other producers be taken into account but in compliance with the provisions on identical imported goods.

4. If two or more transaction values of identical imported goods are determined upon the determination of the dutiable value under the provisions of this Article, the dutiable value is the lowest transaction value, after the price level is adjusted to the same conditions specified in Clause 2 of this Article.

## **Article 9.**

Method of determining the dutiable value on the basis of the transaction value of similar imported goods

1. If the dutiable value of goods imported into Vietnam cannot be determined under the provisions of Articles 7 and 8 of this Decree, it is the transaction value of similar imported goods of which the dutiable value has been determined under the provisions of Article 7 of this Decree.

2. Similar imported goods must satisfy the following conditions:

- a) Similar imported goods are exported to Vietnam on the same day or within 60 days before or after the date of exportation of the goods lot being valued;
- b) Similar imported goods lots are traded on the same level or have been adjusted to the same level of wholesale or retail; have the same quantity or have been adjusted to the same quantity as the goods lot being valued;
- c) Similar imported goods lots have the same transport distance and mode or have been adjusted to the same transport distance and mode as the goods lot being valued.

3. Upon the application of the dutiable value-determining method specified in this Article, only if there is no imported goods lot made by the same producer, shall the goods lots made by other producers be taken into account but in compliance with the provisions on similar imported goods.

4. If two or more transaction values of similar imported goods are determined upon the determination of the dutiable value under the provisions of this Article, the dutiable value is the lowest transaction value, after the price level is adjusted to the same conditions specified in Clause 2 of this Article.

## **Article 10.**

Method of determining the dutiable value on the basis of the deductible value

1. If the dutiable value of goods imported into Vietnam cannot be determined under the provisions of Articles 7, 8 or 9 of this Decree, it is the deductible value. The deductible value shall be determined on the basis of the sale price of imported goods, identical imported goods or similar imported goods in the Vietnamese market minus (-) reasonable expenses incurred after the importation.

2. The sale price of imported goods in the Vietnamese market shall be determined on the following principles:

a) The sale price of imported goods is the actual sale price; if there is no actual sale price of imported goods being valued, the sale price of identical imported goods or similar imported goods in the condition as when imported and sold in the domestic market shall be used to determine the actual sale price;

b) The importer and the domestic buyer have no special relationship;

c) The sale price is calculated based on the greatest quantity of goods sold and sufficient for the formation of a unit price;

d) Goods are sold (wholesaled or retailed) on the earliest day after the importation but before the expiration of the duration of 90days (calendar days) after the date of importation of this goods lot.

3. Reasonable expenses incurred after the importation of goods

a) Where the importer purchases goods by the mode of definitive purchase, the discounts include:

- Freight and insurance for goods when they are sold on the domestic market;

- Tax, charge and fee amounts payable to the state budget upon the importation and sale of imported goods, which, under current provisions of law, can be accounted into sales, cost prices and imports sale expenses;
- General management expenses related to the sale of imported goods;
- Sale profits earn after the importation of goods.

b) Where the importer is the sale agent for a foreign trader, the deductible expenses are the commissions.

Where the sale agent is authorized by the foreign trader to carry out some activities related to the post-importation sale in Vietnam outside the agency contract, expenses incurred in Vietnam for these activities shall also be deducted within the limit of expenses agreed upon in the contract.

The post-importation expenses to be deducted under the provisions of Clause 3 of this Article must truly reflect general expenses and actual profits which are common in dealing these goods.

4. The dutiable value of imported goods going through further processing in the country shall be determined on the principles specified in Clause 1 of this Article, minus expenses for processing to add value to these goods.

The dutiable value-determining method specified in this Article shall not be applied when:

- The imported goods, after being processed, are no longer in the conditions as when imported;
- The imported goods, after being processed, still maintain their characteristics, properties and utilities as when imported, but constitute only a part of the goods sold in the Vietnamese market.

Where the imported goods, after being processed, are no longer in the conditions as when imported but their value added by the processing can still be accurately determined, their dutiable value shall still be determined under the provisions of this Article.

5. Figures for calculation of the deductible value shall be supplied by the importer or its representative, except for cases where these figures are inconsistent with figures collected from the sale of imported goods of the same class or category in Vietnam.

Where the importer's figures are inconsistent with the figures collected from the sale of

imported goods of the same class or category in Vietnam, the deduction of profits and general expenses shall be based on objective and quantifiable figures, apart from information supplied by the importer or its representative.

6. Expenses and profits specified in Clauses 3 and 4 shall be recorded and reflected in accounting books in accordance with the law on accounting and considered on a general basis when determining the dutiable value under the provisions of this Article.

## **Article 11.**

Method of determining the dutiable value on the basis of the computed value

1. If the dutiable value of goods imported into Vietnam cannot be determined by the methods specified in Articles 7 thru 10 of this Decree, it is the computed value. The computed value includes the following items:

a) The cost or value of raw materials and materials, expenses for the production process or other processing stages of the production of imported goods, including:

- Expenses specified at Point a, Clause 1 of Article 13;

- Value of goods and services specified at Point b, Clause 1 of Article 13, if these goods and services are supplied directly or indirectly by the buyer for use in the production of imported goods.

The value of technical designs, construction designs, plans, art designs, model designs, diagrams and sketches shall be included in the dutiable value only if these jobs are carried out in Vietnam and necessary for the production of imported goods.

b) Expenses for and profits from the sale of imported goods;

c) Adjusted expenses defined at Points e and f, Clause 1, Article 13 of this Decree.

2. Expenses and profits used for determination of the dutiable value specified in this Article shall be considered on a general basis.

3. The determination of the computed value shall be based on figures supplied by the producer in accordance with the accounting principles of the goods-producing country, except for cases where these figures are inconsistent with those collected in Vietnam.

4. It is prohibited to inspect or request the presentation of accounting books or other dossiers of subjects who do not reside in the Vietnamese territory for the purpose of determining the computed value specified in this Article.

Verification of information supplied by goods producers in service of the determination of the dutiable value specified in this Article may be carried out outside the Vietnamese territory if:

- a) It is so agreed by the producer and;
- b) It is notified in advance to and approved by a competent agency of the concerned country.

## **Article 12.**

The inferential method of determining the dutiable value

1. If the dutiable value of goods imported into Vietnam cannot be determined by the methods specified in Articles 7 thru 11 of this Decree, it shall be determined by the inferential method.

The inferential method means the sequential and flexible application of dutiable value-determining methods specified in Articles 7 thru 11 which immediately stops at the method by which the dutiable value can be determined, provided that such application complies with the provisions of Clause 2 of this Article and is based on documents, figures and information available at the time of determining the dutiable value.

2. When the inferential method is applied, the following values may not be used to determine the dutiable value:

- a) The sale price of goods of the same kind which have been produced in Vietnam in the domestic market;
- b) The sale price of goods in the domestic market of the exporting country;
- c) The sale price of goods for export to a third country;
- d) The production costs of goods, excluding those for imported goods specified in Article 11 of this Decree;
- e) The minimum dutiable price;
- f) Arbitrary prices;
- g) A valuation system permitting the use of the higher of two alternative values as the dutiable value.

## **Article 13.**

## Adjustments

1. Items to be added to the transaction value for the determination of the dutiable value:

a) The following expenses which shall be paid by the goods buyer but are not yet included in the transaction value:

- Goods sale and brokerage commissions;
- Tare which is treated as being one with imported goods;

Tare treated as being one with goods are packages which always accompany goods as a condition for preservation or use of goods and are classified together with goods according the current classification principles and goods codes;

- Packing costs, including materials and labor costs

b) The value of goods and services which are supplied free of charge or at reduced prices by the buyer to the seller for production and consumption of goods imported into Vietnam, not yet included in the price actually paid or to be paid, including:

- Raw materials, materials, components, parts and similar details incorporated in imported goods;
- Tools, dies, molds and similar details used in the production of imported goods;
- Raw materials and materials consumed in the production of imported goods;
- Technical designs, construction designs, implementation plans, art designs, model designs, diagrams and sketches which are made overseas and necessary for the production of imported goods.

c) Royalties, fees for the licensing of intellectual property rights related to imported goods, which shall be paid by the buyer as a condition for the sale and purchase of imported goods;

d) Proceeds collected by the buyer after the disposal or use of imported goods and transferred in any forms to the seller of imported goods;

e) Freight, expenses for loading, unloading and handling of goods related to the transport of imported goods to the border gate of importation;

f) Insurance expenses for transportation of imported goods to the border gate of importation.

2. The following items shall be deducted from the transaction value if they are already included in the purchase price of imported goods;

a) Expenses for activities carried out after the importation of goods, including construction, architecture, installation, maintenance or technical assistance;

b) Freight and insurance in the country incurred after the importation;

c) Tax, charge and fee amounts payable to the state budget, which are incorporated in the purchase price of imported goods;

d) Discounts made before loading goods onto means of transport in the exporting country, which are indicated in a document submitted together with the customs declaration of imported goods;

e) Expenses to be paid by the buyer, which are related to the marketing of imported goods, including:

- Expenses for market study and surveys about the products to be imported;

- Expenses for advertisement of trademarks and brands of imported goods;

- Expenses related to the display and introduction of newly imported products;

- Expenses for participation in trade fairs and exhibitions of new products;

- Expenses for checking the quantity and quality of goods before the importation. Where these expenses are agreed upon by the buyer and the seller and constitute part of the price actually paid or to be paid by the buyer to the seller, they shall not be subtracted from the transaction value.

- Expenses for opening an L/C for payment for the imported goods lot, if these expenses are paid by the buyer to the bank representing the buyer in making payment for goods purchase.

e) Interests under the buyer's financial agreement related to the purchase of imported goods shall be subtracted from the transaction value if the following conditions are fully met:

- The financial agreement is made in writing;

- The customs declarant can prove upon request that the declared value is the price actually paid or to be paid; and

- The declared interest rate does not exceed the common interest rate applied in Vietnam at the time of effecting the financial agreement;

- Objective and quantifiable figures are available for the deduction of these interests from the price actually paid or to be paid.

3. The addition or subtraction of the expenses specified in Clauses 1 and 2 of this Article shall only be effected on the basis of objective, available and quantifiable figures in accordance with the accounting law.

4. It is prohibited to add or subtract any item other than those specified in Clauses 1 and 2 of this Article.

### **CHAPTER III**

#### **RIGHTS AND OBLIGATIONS OF CUSTOMS DECLARANTS, RESPONSIBILITIES OF CUSTOMS OFFICES**

##### **Article 14.**

Rights and obligations of customs declarants

1. Customs declarants have the following rights:

a) To request customs offices to keep confidential supplied information related to the determination of the dutiable value;

b) To request customs offices to inform and guide the determination of the dutiable value specified in this Article;

c) To be consulted with under the provisions of Clause 6, Article 2, of this Decree;

d) To complain about customs offices' decisions on the dutiable value;

e) To request customs offices to notify them in writing of the dutiable value, the information and data sources, and the method and way of calculation used by customs offices to determine the dutiable value;

f) To request customs clearance for goods after paying a sum of security as provided for in Article 16 of this Decree.

2. Obligations of customs declarants:

a) To comply with the principle of self-declaration and self-determination of the dutiable value; to be answerable before law for the accuracy and truthfulness of the



declared contents and the results of the determination of the dutiable value;

b) To supply truthful information and lawful and valid documents and vouchers for use as a basis for the determination of the dutiable value at the request of customs offices;

d) To pay tax at the price level determined by customs offices as provided in Clause 7, Article 15 of this Decree;

e) To be subject to customs inspection of the dutiable value as provided for in this Decree.

## **Article 15.**

### **Responsibilities and powers of customs offices**

1. To guide customs declarants in determining the dutiable value under the provisions of this Decree.

2. To create favorable conditions for customs declarants to be consulted with under the provisions of Clause 6, Article 2, of this Decree; to request customs declarants to submit and produce lawful and valid vouchers and documents related to goods sale and purchase in order to prove the accuracy and truthfulness of the declared dutiable value.

In case of rejecting customs declarants' proof and explanation on the dutiable value, they shall immediately notify in writing customs declarants of the bases and grounds for the rejection.

3. Within 02 (two) working days after the issuance of a tax-fixing document as provided for in Clause 2, Article 3, of this Decree, customs offices shall notify in writing the customs declarant of the dutiable value, information and data sources, and the method of calculation used for the determination of the dutiable value.

4. To keep confidential information supplied by customs declarants and related to the determination of the dutiable value upon request of customs declarants and in accordance with the provisions of law.

5. To determine the value for use as a basis for calculating the sum of security for the customs clearance of goods as provided for in Article 16 of this Decree.

6. To check the declaration and determination of the dutiable value of imported goods by customs declarants.

7. To determine the dutiable value on the principles and by the methods specified in

Article 4 of this Decree in the following cases:

- a) Customs declarants cannot determine the dutiable value by methods specified in Articles 7 thru 12 of this Decree;
  - b) Customs declarants make untruthful declaration on contents related to the determination of the dutiable value;
  - c) Customs declarants fail to explain or cannot explain the truthfulness and accuracy of contents related to the determination of the dutiable value.
8. To fix the payable tax amount at the price level determined by customs offices as provided for in Clause 7 of this Article.
9. To gather, analyze and manage necessary information for use as a basis for inspection and determination of the dutiable value.

#### **Article 16.**

Postponed determination of dutiable value

1. In the course of determining the dutiable value of imported goods, when it is necessary to postpone the issuance of the final decision on the customs value, the importer of these goods may still take their goods out of customs management if they pay, in the form of guarantee, collateral and other appropriate deposits, a sum of security which is sufficient to ensure payment of the whole tax amount imposed on these goods.
2. The Ministry of Finance shall specify the levels, forms and procedures for payment of security sums defined in Clause 1 of this Article.

### **CHAPTER IV**

#### **COMPLAINTS AND HANDLING OF VIOLATIONS**

#### **Article 17.**

Complaints and settlement of complaints

Where customs declarants disagree with customs offices' decisions on the dutiable value, they shall still abide by these decisions and, at the same time, may lodge complaints under the provisions of law on complaints or initiate a lawsuit at court under the provisions of law on procedures for settlement of administrative cases.

#### **Article 18.**

## Handling of violations of tax payers

1. Tax payers shall pay tax arrears under customs offices' decisions, if customs offices or other competent agencies inspect and detect acts of tax evasion or fraud committed within five years before the date of inspection and detection of tax fraud or evasion.
2. Organizations and individuals violating the provisions of this Decree shall, depending on the nature and seriousness of their violations, be administratively sanctioned or examined for penal liability in accordance with law.

### **Article 19.**

## Handling of violations of customs officers or other concerned individuals

Customs officers and other individuals who lack a sense of responsibility and violate the provisions of this Decree, causing damage to customs declarants, shall pay compensations under the provisions of law and, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability in accordance with law.

## **Chapter V**

### **ORGANIZATION OF IMPLEMENTATION**

### **Article 20.**

## Responsibilities of agencies, organizations and individuals

1. The Ministry of Finance shall guide the implementation of this Decree.
2. The State Bank of Vietnam shall direct and guide credit institutions in supplying customs offices with adequate documents related to the settlement of imported and exported goods in service of the inspection and determination of the dutiable value.
3. Concerned ministries and branches shall coordinate with customs offices in combating trade frauds through pricing.
4. Relevant associations, organizations and individuals shall supply information on imported and exported goods at the request of customs offices.

### **Article 21.**

## Implementation provisions

1. This Decree takes effect 15 days after its publication in CONG BAO and replaces the Government's Decree No. 155/2005/ND-CP dated December 15, 2005, providing for

customs valuation of imported and exported goods.

2. Ministers, heads of ministerial-level agencies and government-attached agencies, presidents of provincial/municipal People's Committees and concerned organizations and individuals shall implement this Decree.

	<p><b>ON BEHALF OF THE GOVERNMENT</b></p> <p><b>PRIME MINISTER</b></p> <p><i>(Signed and sealed)</i></p> <p><b>Nguyen Tan Dung</b></p> <p><i>(This translation is for reference only)</i></p>
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