

# **WORLD TRADE ORGANIZATION**

**G/VAL/N/1/MEX/1/Rev.1<sup>1</sup>**  
19 August 2004

(04-3477)

---

**Committee on Customs Valuation**

Original: Spanish

## **NOTIFICATION UNDER ARTICLE 22 OF THE AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994**

MEXICO

Revision

The following communication, dated 28 June 2004, is being circulated at the request of the delegation of Mexico.

---

Pursuant to Article 22 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, the Permanent Mission of Mexico has the honour to notify herewith the relevant sections of existing national legislation on customs valuation, specifically the Customs Law of 15 December 1995 and 31 December 1996 and its Regulations of 6 July 1996.

---

<sup>1</sup> In English and French only.

## **CUSTOMS LAW**

### **CHAPTER III TAXABLE BASE**

#### **SECTION ONE GENERAL IMPORT TAX**

**ARTICLE 64.** The taxable base of the general import tax is the customs value of the goods, except where the relevant legislation provides otherwise.

The customs value of the goods shall be the transaction value of the goods, subject to the provisions of Article 71 of this Law.

The transaction value of goods for import shall be understood to mean the price paid for the goods, provided that all the requirements of Article 67 of this Law are met and that the goods are sold for export to the national territory by way of purchase by the importer. The price shall be adjusted, where appropriate, according to the terms of Article 65 of this Law.

The price paid shall be understood to mean the total payment made or to be made directly or indirectly by the importer to or for the benefit of the seller for the imported goods.

**ARTICLE 65.** The transaction value of imported goods shall include, in addition to the price paid, the charges detailed below:

**I.** The following, to the extent that they are incurred by the importer and are not included in the price paid for the goods:

- (a) Commissions and brokerage, except buying commissions;
- (b) the cost of containers or packaging which are treated as being one for customs purposes with the goods in question;
- (c) the cost of packing, whether for labour or materials;
- (d) transport, insurance and related costs such as handling, loading and unloading charges associated with the transport of the goods until the situations referred to in Article 56.I of this Law occur.

**II.** The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the importer free of charge or at reduced cost for use in the production and sale for export of the imported goods, to the extent that such value is not included in the price paid:

- (a) Materials, components, parts and similar items incorporated in the imported goods;
- (b) tools, dies, moulds and similar items used in the production of the imported goods;
- (c) materials consumed in the production of the imported goods;
- (d) engineering, development, artwork, design work, plans and sketches undertaken elsewhere than in the national territory and necessary for the production of the imported goods.

**III.** Royalties and licence fees related to the goods being valued that the importer is required to pay, directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price paid.

**IV.** The value of any part of the proceeds of any subsequent disposition, disposal or use of the imported goods that accrues directly or indirectly to the seller.

No additions shall be made to the price paid in determining the transaction value of the goods except as provided for in this Article, on the basis of objective and quantifiable data.

**ARTICLE 66.** The transaction value of the imported goods shall not include the following elements, where broken down or specified as being distinct from the price paid:

**I.** Costs incurred on the importer's own account, even where they can be assumed to benefit the seller, other than those for which an adjustment is required in accordance with Article 65 of this Law.

**II.** The following, where distinguished from the price paid for the imported goods:

- (a) Post-importation construction, installation, erection, assembly, maintenance or technical assistance costs relating to the imported goods;
- (b) transport, insurance and related costs such as handling, loading and unloading charges associated with the transport of the goods, incurred after the situations specified in Article 56.I of this Law occur;
- (c) duties and countervailing duties applicable in the national territory as a result of the import or disposition of the goods.

**III.** The flow of dividends from the importer to the seller and other payments that do not directly relate to the imported goods.

For the purposes of this Article, there shall be considered to be a distinction between the price paid and the amounts mentioned, detailed or specified as being distinct from the price paid in the commercial invoice or other commercial documents.

**ARTICLE 67.** For the purposes of Article 64 of this Law, the customs value shall be the transaction value, provided:

**I.** That there are no restrictions as to the disposition or use of the goods by the importer other than those which:

- (a) Are imposed or required by legal provisions in force in the national territory;
- (b) limit the geographical area in which the goods may subsequently be sold;
- (c) do not affect the value of the goods.

**II.** That the sale for export to the national territory or the price of the goods is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued.

**III.** That no part of the proceeds of any subsequent disposition, disposal or use of the goods by the importer will accrue directly or indirectly to the seller, except in the amount of the adjustment provided for in Article 65.IV of this Law.

**IV.** That there is no relationship between the importer and the seller, or where the importer and the seller are related, that the relationship did not influence the transaction value.

Where none of the above criteria is met, the taxable base of the general import tax shall be determined as established in Article 71 of this Law.

**ARTICLE 68.** For the purposes of this Law, persons shall be deemed to be related if:

- I.** They are directors or officers of one another's businesses;
- II.** they are legally recognized partners in business;
- III.** they are employer and employee;
- IV.** any person directly or indirectly owns, controls or holds 5 per cent or more of the stock, capital inflow or shares in circulation, with the relevant voting rights;
- V.** one of them directly or indirectly controls the other;
- VI.** both of them are directly or indirectly controlled by a third person;
- VII.** together they directly or indirectly control a third person; or
- VIII.** they are members of the same family.

**ARTICLE 69.** In a sale between related persons, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted where the relationship did not influence the price. For the purposes of this Article, it shall be deemed that the relationship did influence the price where it is shown that:

- I.** The price was settled in a manner consistent with the normal pricing practices of the industry in question or with the way in which the seller settles prices for sales to buyers who are not related to the seller.
- II.** 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 in sales of goods of the same class or kind.

**ARTICLE 70.** In a sale between related persons, the transaction value shall be accepted where the importer demonstrates that such value closely approximates to one of the following test values, valid at or at about the same time and recorded in the declaration referred to in Article 81 of this Law, and that there is a relationship with the seller of the goods but that this did not influence the price of the goods:

- I.** The transaction value in sales to importers not related to the seller of identical or similar goods for export to the national territory.
- II.** The customs value of identical or similar goods, determined according to the provisions of Article 74 of this Law.

**III.** The customs value of identical or similar goods, determined according to the provisions of Article 77 of this Law.

In applying the foregoing tests, account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements listed in Article 65 of this Law, and costs incurred by the seller in sales in which the seller and the importer are not related that are not incurred by the seller in sales in which the seller and the importer are related.

The Ministry shall lay down rules establishing the tests for determining that a value closely approximates to another.

**ARTICLE 71.** Where the taxable base of the general import tax cannot be determined on the basis of the transaction value of the imported goods under the terms of Article 64 of this Law, or does not derive from a sale or purchase for export to the national territory, it shall be determined according to the following methods, applied in sequential order and by elimination:

**I.** Transaction value of identical goods, determined according to the provisions of Article 72 of this Law.

**II.** Transaction value of similar goods, determined according to the provisions of Article 73 of this Law.

**III.** Unit selling price, determined according to the provisions of Article 74 of this Law.

**IV.** Computed value of the imported goods, determined according to the provisions of Article 77 of this Law.

**V.** Value determined according to the provisions of Article 78 of this Law.

As an exception to the provisions of the first paragraph of this Article, the order of application of the methods for determining the customs value of the goods, as laid down in sections III and IV of this Article, may be reversed by the importer.

**ARTICLE 72.** The value referred to in Article 71.I of this Law shall be the transaction value of goods identical to those being valued, where such goods were sold for export to the national territory and imported at or at about the same time as the goods in question, and were sold at the same commercial level and in amounts similar to those of the goods being valued.

Where no such sale is found, the transaction value of identical goods sold at a different commercial level or in different quantities, adjusted to take account of differences attributable to commercial level or quantity, shall be used, where such adjustment is made on the basis of demonstrated evidence which establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

If, in applying this Article, more than one transaction value of identical goods is found, the lowest such value shall be used.

In applying the transaction value of goods identical to those being valued, an adjustment shall be made to take account of significant differences in the costs and charges referred to in Article 65.I(d) of this Law between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

Identical goods shall be understood to mean goods which are produced in the same country as the goods being valued and which are the same in all respects, including physical characteristics, quality, trademark and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the provisions in this paragraph from being regarded as identical.

Goods that incorporate or reflect, as the case may be, any of the elements specified in Article 65.II(d) of this Law, for which none of the relevant adjustments has been made because the work relating to those elements was performed in the national territory, shall not be considered to be identical goods.

The values of goods identical to imported goods whose values have been modified by the importer or the customs authorities shall not be taken into account, except where such modifications have also been included.

**ARTICLE 73.** The value referred to in Article 71.II of this Law shall be the transaction value of goods similar to those being valued, where such goods were sold for export to the national territory and imported at or at about the same time as the goods in question, and were sold at the same commercial level and in amounts similar to those of the goods being valued.

Where no such sale is found, the transaction value of similar goods sold at a different commercial level or in different quantities, adjusted to take account of differences attributable to commercial level or quantity, shall be used, where such adjustment is 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.

If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used.

In applying the transaction value of goods similar to those being valued, an adjustment shall be made to take account of significant differences in the costs and charges referred to in Article 65.I(d) of this Law between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

Similar goods shall be understood to mean goods which are produced in the same country as the goods being valued and which although not alike in all respects, have similar characteristics and component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar.

Goods that incorporate or reflect, as the case may be, any of the elements specified in Article 65.II(d) of this Law, for which none of the relevant adjustments has been made because the work relating to those elements was performed in the national territory, shall not be considered to be similar goods.

The values of goods similar to imported goods whose values have been modified by the importer or the customs authorities shall not be taken into account, except where such modifications have also been included.

**ARTICLE 74.** The unit selling price shall be understood to mean the price determined as follows:

**I.** If the imported goods being valued or identical or similar imported goods are sold in the national territory in the condition as imported, the value determined according to 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 aggregate quantity, at or at about the time of the importation of the goods being valued, to persons who are not related to the sellers of the goods, subject to the deductions provided for in Article 75 of this Law.

**II.** If neither the imported goods nor identical or similar imported goods are sold in the country in the condition as imported, the value may, if the importer so chooses, be based on the unit price at which the imported goods, after processing, are sold in the greatest aggregate quantity to persons in the national territory who are not related to the sellers of the goods, allowance being made for the value added by such processing and the deductions specified in Article 75 of this Law, provided that the sale takes place within 90 days of the date of importation.

For the purposes of this Article, the unit selling price shall be understood to mean the price at which the greatest number of units is sold in sales to persons who are not related to the sellers of the goods at the first commercial level after importation at which such sales take place.

No account shall be taken of any sale in the national territory in which the buyer has supplied, directly or indirectly, free of charge or at reduced cost for use in the production, or in connection with the sale for export, of the imported goods any of the elements specified in Article 65.II of this Law.

**ARTICLE 75.** For the purposes of Article 74 of this Law, the following shall be deducted:

**I.** The commissions usually paid or agreed to be paid or the additions usually made, directly or indirectly, for profit and general expenses in connection with sales in the national territory of imported goods of the same class or kind.

**II.** The usual costs of transport and insurance and related costs such as handling loading and unloading charges associated with the transport of the goods, incurred after the situations specified in Article 56.I of this Law occur and not included in the general expenses referred to in the preceding paragraph.

**III.** Duties and countervailing duties paid in the national territory as a result of the import or sale of the goods.

**ARTICLE 76.** For the purposes of Articles 70, 72, 73 and 74 of this Law, the term "at about the same time" covers a period not exceeding 90 days prior or subsequent to the importation of the goods being valued.

**ARTICLE 77.** Computed value shall be understood to mean the value resulting from the sum of the following:

**I.** The cost or value of materials and manufacturing or other processing employed in producing the imported goods, determined on the basis of the commercial accounts of the producer, where such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.

The cost or value referred to in this provision of the Article shall comprise the following:

- (a) The cost and expenses referred to in Article 65.I(b) and (c) of this Law;
- (b) the value, apportioned as appropriate, of the goods and services referred to in Article 65.II(a) to (c) of this Law, where supplied directly or indirectly by the importer for use in producing the imported goods;

- (c) the value, apportioned as appropriate, of the work referred to in Article 65.II(d) of this Law, to the extent that the latter is charged to the producer.

**II.** An overall 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 the national territory.

The general expenses referred to in this provision of the Article shall include the direct and indirect costs of producing and selling the goods for export other than those specified in the preceding provision.

**III.** The costs referred to in Article 65.I(d) of this Law.

For the purposes of this Article, goods of the same class or kind shall be understood to mean goods which fall within a group or range of goods produced by a particular industry or industry sector.

**ARTICLE 78.** Where the value of the imported goods cannot be determined according to the methods referred to in Articles 64 and 71.I, II, III and IV of this Law, the value shall be determined by applying the methods set forth in these Articles in sequential order and by elimination, with added flexibility, using reasonable means consistent with the relevant principles and legal provisions, on the basis of data available in the national territory.

**ARTICLE 78-A.** In the final decision issued pursuant to the procedures in Articles 150 to 153 of this Law, the customs authorities may reject the declared value and determine the customs value of imported goods on the basis of the valuation methods referred to in this Section where:

**I.** It is found that the importer has committed any of the following irregularities:

- (a) Fails to keep accounts, fails to retain or to make available to the authorities all or part of the accounts or the documents relating to foreign trade transactions;
- (b) prevents the customs authorities from performing their task of verification;
- (c) fails to register foreign trade transactions or modifies them;
- (d) fails to declare the applicability of any duty until such time as the verification procedure begins, where more than one month has elapsed after the date on which the declaration should have been presented;
- (e) the accounts show other irregularities that prevent an understanding of the importer's foreign trade transactions;
- (f) fails to meet the requirement to present the customs authorities with the documentation and information attesting that the value declared was determined in accordance with the relevant legal provisions, within the time-limit granted for fulfilling that requirement.

**II.** The information or documentation presented is false or contains false or inaccurate data or it is found that the declared value was not determined in conformity with the provisions of this Section.

**III.** Concerning imports between related persons, the importer has failed to prove that the relationship has not affected the price.



**ARTICLE 78-B.** Importers may seek clarification from the customs authorities concerning the valuation method or the elements used to determine the customs value of the goods.

The request shall be submitted prior to the import of the goods, in compliance with the requirements of the Federal Tax Code, and contain all the information and documentation necessary for the customs authorities to issue the decision.

If the above requirements are not satisfied or further data or documents are needed, the authorities may require the party concerned to make good the omission or to supply the additional information or documents within a period of 30 days. If the party fails to meet that requirement within the prescribed deadline, the request shall be deemed not to have been made.

Decisions shall be issued within a period not exceeding four months. Upon expiry of the deadline without any decision being notified, the interested party may consider that the authorities' decision was negative and either appeal against it at any subsequent moment in time, as long as no decision is forthcoming, or await the decision. Where the interested party is required to make good an omission or provide the elements necessary for a decision, the above term shall commence once that requirement has been fulfilled.

The decision shall apply to post-notification imports made in the course of the relevant fiscal year, insofar as there is no change in the issues of fact and law underpinning the decision, the decision is not revoked or amended, and the party concerned has not misrepresented or omitted any facts or circumstances on which the decision was based.

Notwithstanding the above, the method or elements determined in the decision may apply to pre-notification imports made during the fiscal year in which the decision was issued, according to the terms and conditions laid down therein, where no verification procedure has been initiated in respect of the transactions concerned.

**ARTICLE 78-C.** Facts that have become known as a result of verification by the customs authorities, noted in the files or documents compiled by the authorities or in their possession, information available in the national territory on the customs value of identical or similar goods or goods of the same class or kind, and any data provided by other authorities, third parties or foreign authorities may be used to substantiate decisions determining the customs value of the imported goods, as well as to proceed with the preventive seizure of goods, pursuant to Article 151.VII of this Law.

Information relating to the identity of third parties that import or have imported identical or similar goods or goods of the same class or kind, the customs value of which is used to determine the value of goods subject to a decision, and any confidential information about these imports that is used to substantiate the decision, may be disclosed only in the courts where the act of authority is being challenged.

The provisions of the preceding paragraph notwithstanding, the interested party may appoint a maximum of two representatives for the purposes of accessing the confidential information provided by or obtained from third parties on the customs value of imported identical or similar goods or goods of the same class or kind, pursuant to Articles 46 and 48 of the Federal Tax Code.

**CUSTOMS LAW**

**TITLE SIX**

**POWERS OF THE FEDERAL EXECUTIVE AND TAX AUTHORITIES  
SINGLE CHAPTER**

**ARTICLE 144.** The Ministry shall exercise the following powers, in addition to those conferred upon it by the Federal Tax Code and other laws:

...

**XII.** Correct and determine the customs value of goods declared in the import declaration or any other document as may be authorized by the Ministry to that effect, using the appropriate valuation method as provided for in Title III, Chapter III, Section One of this Law, where the importer has failed to determine the value correctly according to the terms of said Section or to provide, upon request, the elements taken into account for determining such value, or has determined the value on the basis of false or inaccurate documentation or information.

...

## **CUSTOMS LAW REGULATIONS**

### **Chapter III**

#### **Taxable base for imports**

**Article 98.** For the purposes of Article 64.3 of the Law, there shall be considered to be no sale of goods for export to the national territory by way of purchasing by the importer where the goods are imported under a leasing contract, including leasing with an option to purchase.

**Article 99.** For the purposes of Article 65 of the Law, in the absence of objective and quantifiable data relating to the charges to be added to the price paid, the customs value cannot be determined according to the method established in Article 64 of the Law and Article 71 of the Law shall apply.

**Article 100.** For the purposes of Article 65.I(a) of the Law, the following definitions shall apply:

- I.** Commission: sales commission paid directly or indirectly to an agent acting on behalf of the seller for services provided to the latter in the sale of the goods being valued.
- II.** Brokerage: fees paid to a third party for services as an intermediary in the purchase or sale of the goods being valued.
- III.** Buying commission: 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.

**Article 101.** For the purposes of Article 65.I(b) of the Law, containers or packaging shall be treated as being one with the goods when imported and classified together with the goods, are of the type customarily sold with the goods, and are unlikely to be used twice or more.

**Article 102.** For the purposes of Article 65.I(d) of the Law, the importer may determine a provisional customs value where an annual comprehensive transport insurance policy has been taken out and the importer is unable to determine the amount for insurance to be added to the price paid for the goods for each transaction, provided that the following requirements are fulfilled:

- I.** For insurance, the importer shall increase the price paid for the goods by the amount that results from applying to the price the figure obtained by dividing the total cost of insurance over the immediately preceding year by the value of insured goods imported over the course of that same year.

Where a taxpayer begins to engage in import activities, or has failed, in the immediately preceding year, to take out a comprehensive insurance policy and consequently has no data relating to the preceding year, the price paid for the goods shall be increased, for insurance, by the amount that results from applying to the price the figure obtained by dividing the total cost of insurance at the time of importation by the value of estimated imports within the period of insurance coverage.

- II.** The import declaration shall be amended to include the rectified customs value of the goods, determined on a provisional basis, and submitted in the form of additional declarations indicating the amounts for insurance actually corresponding to the goods, and the revised duties and charges resulting from the final determination of the customs value shall be paid, in conformity with Article 89 of the Law and with the Federal Tax Code.

- III.** The additional declarations shall be submitted within the month following the expiry of the comprehensive transport insurance coverage.

If the declarations are not submitted within the above timeframe, customs values declared on a provisional basis shall be deemed to be definitive for all legal purposes.

**Article 103.** Parties exercising the option provided for in Article 102 of these Regulations shall notify the customs authorities in the official format approved by the Ministry.

In such cases, a copy of the policy referred to in the preceding Article shall be attached to the relevant import declaration in addition to the documents specified in Article 36.I of the Law.

**Article 104.** For the purposes of Article 65.II(b) of the Law, if the importer acquires the goods from a seller not related to the importer at a given price, that price shall constitute the value of the goods. If the goods were produced by the importer or by a person related to the importer, their value shall be the cost of producing them. If the goods were produced by the importer or by a person related to the importer, their value shall be the cost of producing them. If the goods had been previously used by the importer, regardless of whether they had been acquired or produced by such importer, the original cost of acquisition or production shall be adjusted downward to reflect their use in order to arrive at the value of the goods.

Once the value of the goods has been determined, the importer may apportion such value to the imported goods according to any of the following methods of apportionment:

- I.** By increasing the total value of the goods at the time of the first shipment.
- II.** By apportioning the value over the number of units produced up to the time of the first shipment.
- III.** By apportioning the value over the entire anticipated production, where contracts or firm commitments exist for such production, and informing the customs authorities in writing of the exercise of such option.

The option selected according to this Article shall be indicated in the import declaration, to which, where appropriate, a copy of the written document to the competent authorities shall be attached.

**Article 105.** For the purposes of Article 65.II(d) of the Law, the addition shall be the cost of the purchase or lease of the goods or services in question, where these were purchased or leased by the importer.

No addition shall be made for goods available in the public domain, other than the cost of obtaining copies of them.

**Article 106.** For the purposes of Article 65.III of the Law, the charges for the right to reproduce the imported goods in the national territory shall not be added to the price paid for such goods.

**Article 107.** Where the charges referred to in Article 65.III and IV of the Law are to be added to the price paid and the amount of such charges cannot be determined at the time of import, the importer may apply the transaction value method, provided that the importer has estimated the approximate amount of the charges and provisionally determined the taxable base.

Where it is possible to determine the charges referred to in the preceding paragraph and the amounts differ from those estimated, the importer shall file a corrigendum to the import declaration, rectifying the taxable base and settling the revised duties as well as the charges payable as of the date on which the duties were collected, in conformity with Article 89 of the Law and with the Federal Tax Code.

If after one year following the date of submission of the import declaration it has been impossible to determine the amount of the charges referred to in Article 65.III and IV of the Law, the importer shall rectify the customs value of the goods determined on a provisional basis, using the appropriate valuation method provided for in Article 71 of the Law. If the additional declarations are not submitted within the prescribed timeframe, customs values declared on a provisional basis shall be deemed to be definitive for all legal purposes.

The provisions of this Article shall apply only where the importer has satisfied the obligation laid down in Article 59.1 of the Law, subject to the provisions of Article 69 of these Regulations.

**Article 108.** For the purposes of Article 67 of the Law, where the value of the condition or consideration is known and related to the imported goods, such value shall form part of the price actually paid or payable.

**Article 109.** For the purposes of Article 68.II of the Law, persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within any of the criteria laid down in the other provisions of this Article.

**Article 110.** For the purposes of Article 68.VIII of the Law, members of the same family are considered to be related where a civil law relationship exists: by legal or natural consanguinity without any restriction in degree in the direct line, or in the collateral or transverse line within the fourth degree; by affinity in the direct line, or in the transverse line to the second degree; and between spouses.

**Article 111.** For the purposes of Article 71.I and II of the Law, where a shipment contains goods to be valued according to the transaction value method and other identical or similar goods for which no sale has been found and are consequently not included in the invoice, the latter may be valued according to the transaction value method for identical goods or the transaction value method for similar goods, as the case may be, using the customs value of the former.

**Article 112.** For the purposes of Articles 72 and 73 of the Law, where information is insufficient to make the relevant adjustments and take into account differences in commercial level or quantity and make the adjustments in respect of transport, insurance and related costs referred to in paragraphs 2 and 4 of the above Articles, the customs value of the goods may not be determined on the basis of the transaction value of identical or similar goods.

**Article 113.** For the purposes of Articles 72 and 73 of the Law, the transaction value of identical or similar goods produced in the same country, by a person other than the producer of the goods being valued, may be used only where there are no identical or similar goods produced by the same person.

**Article 114.** The customs value of imported goods may not be determined according to the provisions of Article 74.II of the Law where the value added by processing cannot be determined on the basis of objective and quantifiable data reflecting the cost of the transaction.

**Article 115.** For the purposes of Article 75.I of this Law, general expenses, which comprise the direct and indirect costs of marketing the goods, and profit shall be taken as a whole.

Where the amount applied by the importer for profit and general expenses is inconsistent with that obtained 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 national territory, the amount for profit and general expenses may be determined on the basis of information other than that used by the importer.

**Article 116.** For the purposes of the first paragraph of Article 77 of the Law, where the customs authorities use information other than that supplied by the producer in order to determine a computed value, they 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, except where the information in question is strictly confidential.

---