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Committee on Customs Valuation

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

DOMINICAN REPUBLIC

The following communication, dated 15 October 2019, is being circulated at the request of the delegation of the Dominican Republic.

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For your information and use, we are pleased to provide the attached decree setting forth customs valuation regulations, consistent with the GATT 1994 Valuation Agreement, to be strictly adhered to in determining customs value. Adjustments to the price actually paid or payable, as set out in Article 11 of these regulations and others deriving from it, may only be made by administrations if objective and quantifiable information is available for those adjustments. Such information is regularly obtained during the post-audit process.

It is to be ensured that values applied by appraisers are not arbitrary or fictitious and that there is full compliance with the regulations.

With respect to the guarantee requirement under Article 30 of the regulations, such a guarantee shall be required in cases where it becomes necessary to delay the final determination of value, keeping in mind that the guarantee may be in the form of a surety, a bank deposit or any other instrument, in all cases satisfactory to Customs. A consideration of the level of risk or creditworthiness of the importer is helpful, as this allows for an objective decision to be taken as to the most appropriate guarantee mechanism.

Decree No. 36-11 of January 2011

**WHEREAS:** As a result of the Uruguay Round, the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade was adopted as an annex to the Agreement Establishing the World Trade Organization;

**WHEREAS:** The agreements embodying the results of the Uruguay Round of Multilateral Trade Negotiations were ratified under National Congress Resolution No. 2-95 of 20 January 1995;

**WHEREAS:** Customs valuation regulations for goods, consistent with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, were set forth in Decree No. 667-01 of 25 June 2001;

**WHEREAS:** Much of the information required on the Value Declaration Form instituted under Rule No. 01-2001 is included in the Single Customs Declaration (DUA);

**WHEREAS:** There is a need for a single valuation document that covers all rules on determining the customs value of imported goods, consistent with the GATT 1994 Valuation Agreement, consolidates the existing domestic rules, and creates a domestic legal mechanism applicable to the various types of situations domestic authorities face in the valuation of imported goods;

**WHEREAS:** It is necessary to lay down regulations with respect to certain legal points that the GATT 1994 Valuation Agreement leaves to Members;

**WHEREAS:** It is necessary to establish procedures for evaluating import declarations and providing notifications in cases where the Directorate-General of Customs doubts the truth or accuracy of the particulars or documents produced in support of the declared value.

**CONSIDERING:** Resolution No. 2-95 of the National Congress of the Dominican Republic, of 20 January 1995, approving the Agreements embodying the results of the Uruguay Round of Multilateral Trade Negotiations;

**CONSIDERING:** Decree No. 667-01, of 25 June 2001, setting forth Customs Valuation Regulations consistent with the GATT Valuation Agreement;

**CONSIDERING:** Rule No. 01/2001, of 29 June 2001, on implementation of the customs value declaration (DVA) form.

In exercise of the powers conferred on me by Article 128 of the Constitution of the Republic, I hereby issue the following:

## **CUSTOMS VALUATION REGULATIONS CONSISTENT WITH THE 1994 VALUATION AGREEMENT**

### **CHAPTER 1**

#### **PURPOSE, SCOPE AND DEFINITIONS**

**ARTICLE 1.** The purpose of these Regulations is to further develop the provisions of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 and provisions under domestic laws.

**ARTICLE 2.** Customs valuation in the Dominican Republic will be governed by: (i) the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, referred to hereinafter as "the GATT 1994 Valuation Agreement" or "the WTO Valuation Agreement"; (ii) these Regulations; (iii) decisions of the Committee on Customs Valuation of the World Trade Organization (WTO); and (iv) general rules issued by the Directorate-General of Customs.

**ARTICLE 3.** Instruments of the Technical Committee on Customs Valuation of the World Customs Organization (WCO) (advisory opinions, case studies, studies, explanatory notes, commentaries, etc.) will be incorporated into domestic law to the extent they are adopted under general rules issued by the Directorate-General of Customs in the exercise of its powers.

**ARTICLE 4.** The following definitions shall apply for the purposes of these Regulations, in addition to the definitions provided in Article 15 of the GATT 1994 Valuation Agreement and the interpretative note thereto:

- (1) **GATT 1994 Valuation Agreement:** the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, also referred to as the WTO Valuation Agreement.
- (2) **Burden of proof:** the obligation on the importer to prove that the declared customs value is the price actually paid or payable for the imported goods, in accordance with the conditions and adjustments provided for in the WTO Customs Valuation Agreement and the rules laid down in these Regulations.
- (3) **Price review clause:** an agreement between the seller and buyer under which a provisional price is set; the final transaction price remains subject to factors that will be specified at a later time. (See WCO instruments for the scope of this term.)

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- (4) **Reasonable doubt:** where the customs authority has reason to doubt the truth or accuracy of the particulars or documents produced by the importer in support of the declared customs value.
- (5) **Commission:** payment or remuneration provided by the buyer or seller to a natural or legal person acting on behalf of either party in a sale or deal. If it is provided by the buyer, it is called a buying commission; if it is provided by the seller, it is called a sales commission.
- (6) **Buyer:** a natural or legal person who acquires ownership of the goods subject to the purchase and sale contract and undertakes the obligation to pay the seller the price of the goods.
- (7) **Broker:** a person who has special knowledge of the markets and acts as an intermediary, putting two or more persons in contact in order to complete a business deal, without being connected to the contracting parties through relationships of collaboration, dependence, agency or representation.
- (8) **Brokerage:** remuneration paid to the broker.
- (9) **Objective and quantifiable data:** clear information that can be verified with physical items such as documents, magnetic media or the like and upon which mathematical calculations may be performed.
- (10) **Incoterms:** international rules drawn up by the International Chamber of Commerce for the interpretation of trade terms. "Incoterms" is an abbreviation standing for "international commercial terms".
- (11) **Time of importation:** the date of the arrival of the goods in the territory of the Dominican Republic, established in accordance with the customs rules in force.
- (12) **Commercial level:** the position occupied by the buyer-importer in domestic trade, whether it be as wholesaler, retailer or consumer, regardless of who the foreign supplier may be and the quantity purchased.
- (13) **Reference value:** an indicator established by the customs authorities to measure the risk in customs valuation controls.
- (14) **Generally accepted accounting principles:** the set of basic concepts and rules that must be observed in financial records and reporting regarding the business affairs and activities of natural or legal persons.
- (15) **Direct subsidiary:** a subordinate company that is directed or controlled economically, financially or administratively by another company, which is the parent company.
- (16) **Indirect subsidiary:** a subordinate company that is directed or controlled by the parent company through or together with one or more of its direct subsidiaries or companies related to it or its direct subsidiaries.
- (17) **Branch:** a trading establishment that is opened by a company within or outside its domicile in order to pursue the company's business or a portion of it and managed by agents with authority to represent the company.
- (18) **Branch with independent legal personality:** a foreign office of a commercial company or an extension of a parent company with its own assets.
- (19) **Customs value:** the value that is determined in accordance with the procedures and methods set forth in the GATT 1994 Valuation Agreement and that constitutes the taxable base for *ad valorem* tariffs.
- (20) **Sale:** a contract under which the ownership of a thing is transferred in exchange for a sum of money or an instrument representing such a sum.

- (21) **Related sales:** a sale involving a condition or consideration relating to another commercial transaction not subject to customs valuation at the time of the import declaration.
- (22) **Test value:** a customs value previously accepted by the customs administration that is used for comparison purposes and to determine whether a relationship had an influence on price.
- (23) **Successive foreign sales:** a series of sales of the same good before clearance for home use.
- (24) **Family relationship:** With respect to Article 15.4(h) of the GATT 1994 Valuation Agreement, two persons are related when there are ties of kinship, consanguinity or affinity between them, to at least at the most distant degree that would give rise to rights of succession under domestic law, either exclusively or together with other relatives.
- (25) **Port or place of importation:** For purposes of Article 8.2 of the GATT 1994 Valuation Agreement, "port or place of importation" means the first customs office where the goods are subject to import declaration formalities.
- (26) **Identical and similar goods:** These are defined in Article 15 of the GATT 1994 Valuation Agreement.

## CHAPTER II

### DECLARATION OF CUSTOMS VALUE

**ARTICLE 5.** The customs value declaration form established by the Directorate-General of Customs must be used for imports with an FOB value over two thousand US dollars (USD 2,000.00) so that the customs value of the imported goods may be determined.

## CHAPTER III

### METHODS FOR DETERMINING CUSTOMS VALUE

**ARTICLE 6.** The customs value of imported goods will be determined in accordance with the valuation methods set out in the WTO Valuation Agreement, which will be applied sequentially and exclusively, in the following order:

- (a) Method 1: transaction value, governed by Articles 1 and 8 of the GATT 1994 Valuation Agreement and the interpretative notes thereto.
- (b) Method 2: transaction value of identical goods, governed by Article 2 of the GATT 1994 Valuation Agreement and the interpretative note thereto.
- (c) Method 3: transaction value of similar goods, governed by Article 3 of the GATT 1994 Valuation Agreement and the interpretative note thereto.
- (d) Method 4: deductive method, governed by Article 5 of the GATT 1994 Valuation Agreement and the interpretative note thereto.
- (e) Method 5: computed value, governed by Article 6 of the GATT 1994 Valuation Agreement and the interpretative note thereto.
- (f) Method 6: method of last resort, governed by Article 7 of the GATT 1994 Valuation Agreement and the interpretative note thereto.

**PARAGRAPH I.** Upon written request, the importer will be entitled to a written explanation of the method used to determine the customs value of the goods.

**ARTICLE 7. Application of Method 1: Cases where the customs administration may reject the transaction value declared by the importer:**

- (a) Where there is no sale.
- (b) Where restrictions are imposed on the disposition or use of the goods by the buyer, other than those that are imposed by law, limit the geographical area in which the goods may be sold and do not affect the value of the goods.
- (c) Where the sale or price is subject to certain conditions for which a value cannot be determined.
- (d) Where part of the proceeds of a subsequent resale by the buyer accrues to the seller.

- (e) Where the buyer and seller are related and the relationship influences the price.
- (f) Where it is appropriate to adjust the price actually paid or payable under the terms of Article 8 of the WTO Valuation Agreement, and objective and quantifiable data are not available.

**ARTICLE 8. Price paid or payable.** This includes all payments actually made or to be made as a condition of sale of the imported goods by the buyer to the seller (direct payment) or by the buyer to a third party to satisfy an obligation of the seller (indirect payment).

**ARTICLE 9. Commercial invoice.** The price expressed in the commercial invoice may be taken as the valuation basis, provided that:

- (a) It corresponds to the price actually paid or payable.
- (b) It is supported by original documents, with no smudges, corrections or signs of alteration. It must be translated into Spanish, with the translation submitted together with the original.
- (c) It indicates the numbering assigned by the foreign supplier; the place and date of issue; the name and/or business name and domicile of the seller and buyer; the quantity, including the unit of measure used; the name and description of the main characteristics of the goods; the unit price and total price, with an indication of the agreed Incoterms; the relevant transaction currency; the form and terms of payment; and any other factor that may exist affecting the price paid or payable.
- (d) Where invoicing is done by code, the importer must provide the relevant catalogue for decoding. This document must be issued by the supplier or exporter of the good.

**ARTICLE 10. Influence of relationship on the price.** Where a price declared by a person related to a supplier is lower than prices previously accepted by the Directorate-General of Customs for identical or similar goods imported at or about the same time by buyers unrelated to the seller, the relationship may be considered to have influenced the price.

**PARAGRAPH I.** If on the basis of the aforementioned elements, Customs has doubts as to whether the declared price was affected by the relationship, this fact shall be communicated to the importer.

**PARAGRAPH II. Evidence.** In responding to a communication of the type described in the above paragraph, the importer must provide the customs administration with documentary evidence showing that the value was not influenced by the relationship, through one of the following means:

- (a) An analysis of the circumstances surrounding the sale.
- (b) The use of test values.

For the latter test, in determining whether the declared value closely approximates to a test value, the following factors should be considered on a case-by-case basis:

- (a) The nature of the good.
- (b) The nature of the industry.
- (c) The time period of importation; that is, whether the goods considered were imported at or about the same time.

**ARTICLE 11.** Both additions and deductions made to the price paid or payable in determining the transaction value are considered adjustments.

1. Additions may be made only if the elements to be adjusted satisfy the following requirements:

- (a) They are part of the customs value.
- (b) They are borne or incurred by the buyer of the good.
- (c) They are not included in the price paid or payable for the imported good.
- (d) They can be identified with objective and quantifiable data.
- (e) They are addressed in Article 8 of the GATT 1994 Valuation Agreement.

**ARTICLE 12.** All elements referred to in Article 8.1 of the GATT 1994 Valuation Agreement must form part of the customs value. All elements listed in Article 8.2 of the Agreement are also included in the customs value.

**PARAGRAPH:** Where any of those elements is provided free of charge or through the importer's own channels or services, Customs will calculate the value of the elements in accordance with the fees usually applied for those services. Where no information on the fees exists, the transaction value will be rejected and the value will be determined using the subsequent methods under the GATT 1994 Valuation Agreement.

**ARTICLE 13.** For purposes of Article 8.1(c) of the GATT 1994 Valuation Agreement, adjustments for royalties and license fees will be calculated using the following formulas:

**1) FOR FINISHED PRODUCTS**

- Annual royalty amount the enterprise expects to have to pay divided by annual FOB X 100 = rate by which FOB will be increased per importation

$$\text{Royalty/Annual FOB} \times 100 = \text{Rate}$$

$$100/1000 \times 100 = 10\% \text{ (the FOB value of each importation will be increased by 10\%)}$$

**2) FOR INPUTS OR RAW MATERIALS**

- Annual royalty amount/annual production cost x 100 = rate by which the FOB value of importations related to the royalty will be increased

$$\text{Royalty/Production Cost} \times 100 = \text{Rate}$$

$$200/2000 \times 100 = 10\% \text{ (percentage by which FOB is increased)}$$

**CHAPTER IV**

**ELEMENTS NOT CONSIDERED PART OF CUSTOMS VALUE**

**ARTICLE 14.** Elements not considered part of the customs value must satisfy the general requirements below. They must:

- Be related to the imported goods.
- Be distinguishable from the price of the goods on the commercial invoice.
- Be included in the price paid or payable for the imported goods.
- Involve charges not considered an integral part of customs value under the interpretative note to Article 1 of the GATT 1994 Valuation Agreement.

**ARTICLE 15.** Charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of the imported goods will not be regarded as part of the customs value, provided that:

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

**PARAGRAPH I.** The foregoing will apply regardless of whether the finance is provided by the seller or another natural or legal person. Furthermore, where appropriate, the above requirements will apply in cases where the goods are valued under a method other than transaction value.

**PARAGRAPH II:** If any requirement set out in this article is not met, the amount attributed to interest will be considered part of the transaction value.

**ARTICLE 16.** Discounts will be taken into consideration when determining the customs value, provided that:

- (a) They relate to the goods being valued.
- (b) They are distinguishable from the price of the goods, as indicated on the commercial invoice, or recorded in the written contract of sale, a copy of which must be submitted at the time of the import declaration.
- (c) They are not retroactive and are not considered indirect payments.
- (d) They are granted in the ordinary course of business under fully competitive conditions.

**PARAGRAPH I.** Under the "fully competitive conditions" rule, sales prices involving special discounts granted only to exclusive agents may be disregarded; the importer must therefore have data available proving that the discount is a feature of the seller's prices.

**PARAGRAPH II.** The customs administration will look at the nature and reasonableness of discounts and accept those that are based on early payment, quantity or level of trade, meet the requirements described above, and are not considered abnormal discounts relative to the ordinary competitive price.

**ARTICLE 17.** The following are also excluded from the customs value:

- (a) Payments by the buyer for the right to distribute or resell the imported goods if such payments are not a condition of the sale for export to the country of importation;
- (b) The flow of dividends or other payments from the buyer to the seller that are unrelated to the imported good;
- (c) The following charges or costs, provided that they are distinguished from the price actually paid or payable: the cost of transport after importation into the customs territory of the Dominican Republic; charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation; tariffs and other taxes applicable in the territory of the Dominican Republic as a result of the importation or sale of the goods;
- (d) Buying commissions, with the importer being required to prove their existence by means of a commission contract that demonstrates the existence of such payments; otherwise, the declared commissions will be added to the price actually paid or payable;
- (e) Actions undertaken by the buyer in the country to market the goods, even if such actions are deemed to be of benefit to the seller.

## **CHAPTER V**

### **CUSTOMS CONTROLS**

**ARTICLE 18. Powers of customs administrations.** Under Article 17 of the WTO Valuation Agreement, read together with the paragraph 6 of Annex III thereto, customs administrations have the right to carry out the controls and enquiries necessary to ensure that declared customs values, as the taxable base, are correct and have been determined in accordance with the conditions and requirements of the WTO Valuation Agreement.

**ARTICLE 19. Verification of customs value.** In light of the previous article, the customs administration will have overall responsibility for valuation, which, in addition to controls prior to and during clearance, includes post-importation checks, controls, studies and enquiries in order to ensure the correct valuation of the goods imported.

**ARTICLE 20. Reasonable doubt.** The customs administration may deem that reasonable grounds exist to doubt the truth or accuracy of the declared value or documents produced where, for example:

- (a) The declared value is inconsistent with the transaction values of identical or similar goods under export sales to our country at or about the same time as the goods being valued.
- (b) The declared value is inconsistent with values found for identical or similar goods in previous Customs determinations.
- (c) The declared value is inconsistent with values that have been accepted and/or modified by Customs for trade transactions carried out by the same importer involving identical or similar goods from the same country of production.

- (d) The buyer and seller are related.
- (e) Commercial invoices and/or any other documents deemed necessary by Customs and required for the relevant customs declaration to be accepted have items erased or crossed out or obvious omissions of basic data such as the value and quantity of the goods, their codes, the date, the identity of the issuer, seller or supplier, the description of the goods, the terms or conditions of the sale, the terms of payment, and the domicile of the issuer, seller or supplier.

**ARTICLE 21. Procedure for applying the reasonable doubt mechanism.** For the purposes of Decision 6.1, the reasonable doubt procedure allows for consideration of prices of comparable transactions verified about the same time, meaning those dating from no more than one year prior to the transaction in question, or other reliable information on value that Customs has in its possession, but excludes the use of arbitrary or fictitious values.

**PARAGRAPH I.** Where a declaration has been presented and Customs has reason to doubt the truth or accuracy of the particulars or documents produced in support of that declaration, Customs may ask the importer to provide further explanation in writing within five (5) business days, including documents or other evidence demonstrating that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of Article 8 of the GATT 1994 Valuation Agreement.

**PARAGRAPH II.** Where, in accordance with Article 17 of the GATT 1994 Valuation Agreement, the customs administration considers that the particulars or documents requested from the importer are insufficient to determine the truth of the declared value, it will be entitled, consistent with Article 5, paragraph II, of Law No. 3489 of 14 February 1953, to request, review and verify the accounting records for the transactions, including information contained on magnetic media, pursuant to Article 44 of Law No. 11-92 of 16 May 1992 (Tax Code of the Dominican Republic).

**PARAGRAPH III.** If, after receiving and/or compiling the additional information, or if no response is received within the above-mentioned time period, Customs still has reasonable doubts about the truth or accuracy of the declared value, it may decide that the customs value of the imported goods cannot be determined under the terms of Article 1 of the GATT 1994 Valuation Agreement, keeping in mind the provisions of Article 11 of that Agreement.

**PARAGRAPH IV.** Before taking a final decision, Customs will communicate to the importer, in writing if requested, the grounds for doubting the truth or accuracy of the particulars or documents produced, and the importer will have ten (10) days to respond, as provided under domestic customs law. When a final decision is taken, Customs will notify the importer in writing of its decision and the grounds therefor.

**ARTICLE 22. Provisional nature of the values determined by the customs administration.** Any decision regarding the customs value of an imported good may be reviewed by the Directorate-General of Customs under Article 118 of Law No. 3489, and if, after a customs value has been determined, it is shown that certain documentation was fraudulent, that value will be invalidated.

**ARTICLE 23. Burden of proof.** In determining the customs value, as well as in checks and enquiries by the customs administration concerning valuation, the burden of proof shall, in principle, lie with the importer or buyer of the goods.

**PARAGRAPH.** If the importer and buyer are not the same person, the burden of proof shall lie with both the importer and the buyer of the imported good; if the importer or buyer is a legal person, with its legal representative and the person authorized to act on its behalf.

**ARTICLE 24. Requirements for requesting additional information.** The request referred to in Article 21, paragraph II, will be communicated in writing, on a form designed for that purpose, by the customs administration, with an indication of the doubt or disagreement with respect to the accuracy or truth of the declaration submitted; the request will be sent to the importer or the importer's legal representative and contain the following:

- (a) The name of the importer or the legal representative.
- (b) The import declaration number, date and customs administration.



- (c) An express request for the importer to provide, within five (5) working days of the date of notification, the additional explanation, supporting documents and certifications.
- (d) The legal basis for the request.
- (e) The place and date.
- (f) The name, signature and stamp of the customs authority signing the request.

**ARTICLE 25. Obligation to furnish information.** Any person directly or indirectly concerned by import transactions for the goods in question or subsequent transactions concerning the same goods, as well as any person who has appeared before Customs in relation to the customs declaration of the goods and the declaration of value, and who is requested by the customs administration to provide documents, books, accounting records or any other necessary information, including on electronic media or by any other digital means, for verification of or enquiry into the customs value, must provide these in a timely manner, in the form and according to the terms determined by the Directorate-General of Customs.

**PARAGRAPH I.** Failure to provide the requested items will be sufficient grounds for rejecting the declared customs value, and the customs administration will issue a final decision within five (5) working days.

**PARAGRAPH II.** If the information submitted contains such inconsistencies or discrepancies that the reasonable doubt persists, this will constitute sufficient grounds for rejecting the declared customs value.

**PARAGRAPH III.** In cases where the importer cannot prove the price actually paid or payable because no books or accounting records are kept of transactions or because payment was made in cash but was not officially documented, the customs administration may reject the transaction value method and determine value in accordance with the other methods provided for in the WTO Valuation Agreement.

**PARAGRAPH IV.** The customs administration may reject the declared value and determine the customs value of the imported goods on the basis of the valuation methods set out in the Agreement, applied in sequential order, if it is found during the investigation that the importer has engaged in any of the following irregularities:

- (a) Not duly keeping or conserving accounting records of its foreign trade transactions.
- (b) Not making available to the customs administration relevant accounting records and documentation showing the foreign trade transactions.
- (c) Objecting to the exercise by the customs authorities of their power to carry out verifications.
- (d) Omitting or altering accounting records for foreign trade transactions that affect the value.
- (e) Where the information or documentation presented contains false or inaccurate data or it is found that the declared value was not determined in accordance with the Agreement.
- (f) In the case of transactions between persons related under the terms of Articles 15.4 and 15.5 of the Agreement, where the importer is required to demonstrate that the relationship did not affect the price and fails to do so within a period of ten (10), which may be extended only once.

**ARTICLE 26.** The application of methods 4 and 5 will also be governed by the GATT 1994 Valuation Agreement.

**ARTICLE 27. Application of the method of last resort.** In applying this method, a flexible approach will be taken to the methods set out in Articles 1 to 6 of the GATT 1994 Valuation Agreement. However, if a customs value cannot be determined by applying those methods, even in a flexible manner, such a value can, as a last resort, be determined by applying other reasonable methods involving the use of specialized publications on goods prices on the international market, provided that these are not prohibited under Article 7.2 of the Agreement and they are consistent with the principles and general provisions of the Agreement.

## CHAPTER VI

### GENERAL

**ARTICLE 28. Currency conversion.** With respect to Article 9 of the GATT 1994 Valuation Agreement, the exchange rate will be the rate in effect on the date of acceptance of the declaration of clearance for home use.

**ARTICLE 29. Confidentiality.** With respect to Article 10 of the Agreement, confidential information that is provided to customs authorities for valuation purposes shall not be disclosed without the consent of the person or government that provided it, except in cases where it may be necessary to disclose such information in connection with judicial or administrative proceedings or, to ensure transparency in the tax system, in connection with audits of value carried out by this Institution, which are firm and irrevocable.

**ARTICLE 30. Guarantee.** With respect to Article 13 of the Agreement, where it becomes necessary to delay the final determination of the value, the importer may withdraw his goods through full payment of the tax on the declared value or by providing sufficient guarantee, satisfactory to the customs administration, in the form of a surety, a deposit or some other instrument covering the difference in the customs duties and taxes to which the goods may be subject.

**ARTICLE 31. Complaints and appeals.** With respect to the determination of customs value, the procedures for complaints and appeals against decisions of the customs authorities will be the same as those under domestic law.

**PARAGRAPH I.** As set forth in Article 11 of the WTO Valuation Agreement, importers or any other persons liable for the payment of duties and taxes have the right to appeal, without penalty, determinations of value made by the customs administration for the goods being valued.

**PARAGRAPH II.** "Without penalty" means that the importer shall not be subject to a fine or threat of fine merely because the importer chose to exercise the right of appeal. Payment of normal court costs and lawyers' fees is not considered to be a fine.

**PARAGRAPH III.** However, nothing in this article shall prevent full payment being required for fines imposed prior to an appeal.

**PARAGRAPH IV.** With respect to Article 11.3 of the GATT 1994 Valuation Agreement, whenever administrative or judicial decisions are notified to the appellant, the appellant will also be informed of any further rights to appeals before higher bodies in either area.

**ARTICLE 32.** Article 4 of the GATT 1994 Valuation Agreement will apply only when the Directorate-General of Customs accepts a request to reverse the order of application of Articles 5 and 6 of that Agreement.

**ARTICLE 33.** Article 5.2 of the GATT 1994 Valuation Agreement will be applied in accordance with the interpretive note thereto, whether or not requested by the importer.

**ARTICLE 34.** Neither these Regulations nor the rules under the GATT 1994 Valuation Agreement will be used to resolve cases relating to dumping or subsidies, as indicated in the preamble to the Agreement. The prevention or correction of distortions caused by their existence will be resolved in accordance with the regulations covering those matters.

## CHAPTER VII

**ARTICLE 35. Successive sales.** In successive sales occurring before final importation of the goods being valued, the value of the last transaction before a goods declaration for home use was submitted will be taken into account, provided that that value meets the requirements set forth in the Agreement and these Regulations.

**ARTICLE 36. Implementing instruments.** In interpreting and applying the valuation rules set out in the WTO Valuation Agreement and further developed in these Regulations, the decisions of the

Committee on Customs Valuation of the World Trade Organization and the advisory opinions, commentaries, explanatory notes, case studies and studies of the Technical Committee on Customs Valuation of the World Customs Organization will be taken into account.

**ARTICLE 37. Violations and penalties.** Customs violations with regard to customs valuation and the applicable penalties are defined and applied under Law No. 3489 and the amendments thereto.

**ARTICLE 38. Repeal.** This Decree repeals Decree No. 667-01, which set forth regulations for the implementation of the WTO Valuation Agreement.

**DONE** in the city of Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on the twentieth (20<sup>th</sup>) day of January in the year two thousand eleven (2011); the 167<sup>th</sup> year of Independence and the 148<sup>th</sup> year after the Restoration.

**LEONEL FERNANDEZ REYNA**

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