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Comité de l'évaluation en douane

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**NOTIFICATION AU TITRE DE L'ARTICLE 22 DE L'ACCORD SUR LA
MISE EN ŒUVRE DE L'ARTICLE VII DE L'ACCORD GÉNÉRAL
SUR LES TARIFS DOUANIERS ET LE COMMERCE DE 1994**

BRÉSIL

La communication ci-après, datée du 7 octobre 2022, est distribuée à la demande de la délégation du Brésil.

Conformément à l'article 22:2 de l'Accord sur la mise en œuvre de l'article VII de l'Accord général sur les tarifs douaniers et le commerce de 1994, le Brésil a l'honneur de notifier la publication de l'Instruction normative RFB n° 2.090¹ du 22 juin 2022, qui prévoit la déclaration et le contrôle de la valeur en douane des marchandises importées. Les instructions normatives ci-après sont abrogées:

- Instruction normative SRF n° 80 du 27 décembre 1996;
- Instruction normative SRF n° 318 du 4 avril 2003;
- Instruction normative SRF n° 327 du 9 mai 2003; et
- Instruction normative RFB n° 1.726 du 3 août 2017.

Vous trouverez ci-joint la version en anglais de l'Instruction normative RFB n° 2.090 du 22 juin 2022 (traduction non officielle). La version officielle est disponible en portugais à l'adresse suivante: https://www.in.gov.br/web/dou/-/instrucao-normativa-rfb-n-2.090-de-22-de-junho-de-2022-*-410374405.²

¹ En anglais uniquement.

² Cette instruction normative a fait l'objet d'une rectification le 3 août 2022 (<https://www.in.gov.br/web/dou/-/retificacao-419646465>).

NORMATIVE INSTRUCTION RFB Nº 2.090, OF 22 JUNE 2022

Provides for the declaration and control of the customs value of imported goods.

The SPECIAL SECRETARY OF THE FEDERAL REVENUE OF BRAZIL, in the use of the attributions conferred on the item III of article 350 of the Internal Rules of the Special Secretariat of the Federal Revenue of Brazil, approved by Ordinance ME Nº 284 of July 27th, 2020, and considering the provisions of the articles 86 and 87 of Provisional Measure 2.158-35, of August 24, 2001, the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade - GATT 1994, set out in Annex 1A to the Constitutive Agreement of the World Trade Organization, approved by Legislative Decree Nº 30, of December 15th, 1994, and promulgated by the Decree Nº 1.355, of December 30, 1994, the articles 76 to 85, and 89, of the Decree Nº 6.759, of February 5th, 2009 - Customs Act, the Decision of the Council of the Common Market - Mercosur Nº 13, of June 28, 2007, incorporated into the Brazilian legal order by the Decree Nº 6.870, of June 4th, 2009, and decree Nº 10.139, of November 28, 2019, solves:

CHAPTER I

PRELIMINARY PROVISIONS

Art. 1º This Normative Instruction provides for the declaration and control of the customs value of imported goods.

§ 1º The provisions of the caput also include cases of reimportation of goods temporarily exported for outward processing.

§ 2º The provisions of this Normative Instruction do not apply to cases fraud, evasion or collusion, involving the declared customs value, in which it is not possible to ascertain the price actually practiced on importation, in which case the provisions of Art. 88 of Provisional Measure 2.158-35, of August 24, 2001, shall be applied.

§ 3º The procedures established in this Normative Instruction do not apply to combat dumping.

§ 4º The calculation of the customs value shall be carried out in accordance with the specific legislation, in the case of goods subject to the special, simplified or unified taxation regimes, which deal with the articles 99 to 102-A of Decree Nº. 6.759, of February 5, 2009 - Customs Act.

Art. 2º For the purposes of this Normative Instruction, the following definitions apply:

I - customs value of the good: the basis for calculating the Import Tax, when its rate is ad valorem, and it shall be calculated under the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade - GATT 1994 - Customs Valuation Agreement (WTO/CVA), promulgated by the Decree Nº 1.355/1994.

II - buyer: the person who purchases the goods and undertakes to pay to the seller the negotiated price, even if a third party acts as an importer, to honor this obligation or to promote the import clearance;

III - seller: the person who, as a result of the commercial transaction, transfers to the buyer the ownership of the good and undertakes to deliver it according to the agreed terms and conditions, even if he hires a third party to honor this obligation or to promote export clearance.

IV - related persons: natural or legal entities, as the case may be, if:

- a) they are officers or director of one another's businesses;
- b) they are legally recognized partners in business;

- c) they are employer and employee;
- d) any person, directly or indirectly, owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them;
- e) one of them, directly or indirectly, controls the other;
- f) both of them are directly or indirectly controlled by a third person;
- g) together they directly or indirectly control a third person; or
- h) they are members of the same family.

V - members of the same family:

- a) spouses or partners;
- b) brother and sister;
- c) ascending and descending in first and second degrees, in a direct line;
- d) uncle, aunt, nephew and niece;
- e) father-in-law, mother-in-law, son-in-law and daughter-in-law; and
- f) brother-in-law and sister-in-law.

VI - Buying commission: fees paid or payable by the buyer to his agent, for the services of representing the buyer abroad in the purchase of the good being valued;

VII - value ratified: the customs value of a particular good, regularly calculated by a Fiscal Auditor of the Federal Revenue of Brazil, or expressly accepted by it, in accordance with the provisions of this Normative Instruction.

§ 1º For the purposes of subparagraphs "e", "f" and "g" of the item IV of the head of this article, one person shall be deemed to control another when the former is, legally or operationally, in a position to exercise restraint or dictate orders in essential areas related to the direction of the activities of the second person, such as, in direction positions, property rights, voting rights or location of commercial points.

§ 2º Natural or legal persons that are associated in business, one of them being an sole agent, distributor, or exclusive of the other, whatever the name used, they shall be deemed to be related for the purposes of this Normative Instruction, provided that they meet any of the points of item IV of the head of this article.

§ 3º - In accordance with the provisions of article 87 of Provisional Measure Nº 2.158-35, 2001, the relationship between the parties to the commercial transaction shall be presumed when, due to the legislation of the country of the seller or of the exporter or the practice to conceal information, it is not possible to:

I - know or confirm the corporate composition of the seller, their responsible or directors;
or

II - verify the existence, in fact, of the seller.

Art. 3º All goods submitted to import clearance shall be subject to control to the corresponding customs value.

Sole paragraph. The control referred to in the head of this article consists of the procedure for verifying the conformity of the customs value declared by the importer to the rules established in the WTO/CVA, the rules issued within Mercosur, and the provisions contained in the Customs Act, and in this Normative Instruction.

CHAPTER II

METHODS FOR DETERMINING THE CUSTOMS VALUE

Section I

Transaction Value Method

Subsection I

The Conditions for Using the Transaction Value Method

Art. 4º The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the imported goods when sold for exportation to the national territory, adjusted in accordance with the provisions of Article 8 of the WTO/CVA, provided that:

I - there are no restrictions as to the disposition or use of the goods by the buyer, except those that:

- a) are imposed or required by national legislation;
- b) limit the geographical area in which the goods may be resold; or
- c) do not substantially affect the value of the goods;

II - the sale or price is not subject to any condition or consideration for which a value cannot be determined with respect to the goods being valued;

III - no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue either directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Article 8 of the WTO/CVA; and

IV - there is no relationship between the buyer and the seller involved in the import operation of the goods, or, if there is, the transaction value is acceptable for customs purposes, in accordance with the provisions of paragraph 3.

§ 1º In the case of sale between related parties, in accordance with the provisions of article 2, the transaction value may be adopted in the import declaration, provided that the buyer can demonstrate that the relationship did not influence the price.

§ 2º The obligation to demonstrate the provisions referred to in § 1 also extends to the third party that acts as an importer on account and order, in accordance with the Normative Instruction RFB nº 1.861, of December 27, 2018.

§ 3º The demonstration referred to in §§ 1 and 2 may be requested by the customs authority, and the transaction value shall be acceptable for customs purposes whenever the importer demonstrates that such value is very close to one of the following test-values, occurring at or about at the same time as the importation:

I - the transaction value in sales to unrelated buyers of identical or similar goods for export to Brazil;

II - the customs value of identical or similar goods, determined by method of deductive value, under the provisions of Article 5 of the WTO/CVA; or

III - the customs value of identical or similar goods, determined by the computed value method, under the provisions of Article 6 of the WTO/CVA.

§ 4º The test-value referred to in the §3º shall be ratified or have previously been ratified by a Fiscal Auditor of the Federal Revenue of Brazil, pursuant the subparagraph "c" of item II of the article 30.

§ 5º The prohibition for the use of the transaction value method referred to in item IV of the caput also applies to the case in which there is a relationship between the foreign seller and the predetermined ordering party, as dealt with in the Normative Instruction RFB nº 1.861, of 2018,

unless it is shown that the relationship did not influence the price, in accordance with the provisions of paragraph 3.

§ 6º The characterization that the relationship between the parties influenced the prices practiced in the importation may be based, among other elements, on the information contained in the statements of calculation of the cost of the imported goods in operations carried out by a related person, for the purpose of determining the real profit, as provided for by the national legislation on transfer pricing.

Subsection II

The Price Actually Paid or Payable

Art. 5º The price actually paid or payable includes all payments made or to be made, directly or indirectly, as a condition of sale of the goods being valued, by the buyer to the seller, or by the buyer to a third party, to satisfy an obligation of the seller.

§ 1º The price actually paid or payable includes, among others, the costs related to:

I - commercialization of the imported goods, such as advertising, warranty and sales promotion, paid by the buyer to the seller or for the benefit of the seller so as to satisfy a part of the payment for the imported goods, and as a condition of sale of that good; and

II - the supply of materials or provision of services to a third party, by the buyer, for the benefit of the seller, as a condition of sale of the imported good.

§ 2º For purposes of calculation of the customs value based on the transaction value method, the discount related to previous transactions shall be considered as part of the price actually paid for the valued goods to which this discount has been granted, regardless if the discount is distinguished in the commercial invoice.

Subsection III

Transaction Value Adjustments

Art. 6º In determining the customs value in accordance with the transaction value method, there shall be added to the price actually paid or payable for the imported goods:

I - the following, to the extent that they are incurred by buyer but are not included in the price actually paid or payable for the goods:

a) commissions and brokerage, except buying commissions;

b) the cost of containers and packaging which are treated as being one for customs purposes with the goods in question; and

c) the cost of packing whether for labour and materials;

II - royalties and license fees related to the goods being valued that the buyer must pay, either 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 actually paid or payable;

III - the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.

§ 1º For the purposes of this article, it will not be considered as a purchasing agent, the intermediary that:

I - acts at your own risk when importing the goods;

II - holds the property right over the goods; or

III - is related to the seller or to a person related to the seller.

§ 2º For the purpose of applying item II of the head of this article:

I - it is considered also as related to the good being valued the royalties and license fees due on the inputs used in its production abroad; and

II - it is considered as a condition of sale of the imported goods the payment of the corresponding royalties and license fees, whenever the obligation of payment by the buyer arises with the acquisition of the goods being valued, including as a condition for its production abroad, regardless of the relationship between the licensor and the seller or buyer.

Art. 7º For the purpose of calculation the transaction value, there shall be added to the price actually paid or payable, the value of the following goods and services supplied, directly or indirectly, by the buyer free of charge or at reduced cost for use in the production of the imported goods:

I - materials, components, parts and similar elements incorporated in the imported good;

II - tools, dies, moulds and similar items;

III - materials consumed in the production; and

IV - engineering, research and development projects, artwork, design work, plans and sketches, undertaken abroad.

Art. 8º. The value of the supplies referred to in article 7º shall be equal to the sum:

I - the acquisition or production cost adjusted, if appropriate, as a result of prior use to the supply or the added value for any repair or modification after the acquisition or production;

II - transport and insurance costs incurred until their arrival at the place where they were used in the production of imported goods, when the buyer incurs these costs; and

III - customs duties or taxes on goods or services incurred abroad.

§ 1º The cost of acquisition or production of the goods or services, referred to in the item I of the head of this article, shall be determined based on:

I - the cost of acquisition or lease, when they have been purchased or leased by a person not related to the buyer at the time of purchase or lease;

II - the cost of acquisition or lease, incurred by a person related to the buyer at the time of purchase or lease, that has not produced them, but has purchased or leased from an unrelated third party; or

III - the cost of production, when they have been produced by the buyer or by a person related to the buyer at the time of purchase.

§ 2º The adjustment resulting from the use previously to the supply, as provided in item I of the head of this article, shall be admitted only when the asset has been duly depreciated based on the generally accepted accounting principles.

§ 3º For the purposes of this article, the total value of the good or service shall be considered, in case of free supply, or the amount corresponding to the reduction granted by the importer, in case the supply is at a reduced price.

§ 4º In importation by installments, related to the same purchase and sale contract, the appropriation of the value of the goods and services provided may be carried out according to the importer's decision:

I - in full, in the first shipment of goods;

II - proportionally to the total units produced until the moment of import, duly proven; or

III - proportionally to the total units traded, duly proven upon presentation of the respective contract for importations by installments.

Art. 9^o In determining the customs value, the following elements shall be added:

I - the cost of transport of the imported goods to the port, airport or customs border point where the formalities for entry into the customs territory shall be conducted;

II - loading, unloading and handling charges associated with the transport of the imported goods, until they arrive at the places referred to in item I, excluded the costs incurred in the national territory, since they are distinguished from the transportation cost; and

III - the cost of insurance for the transport of the goods during the operations referred to in items I and II.

§ 1^o The elements referred to in the head of this article shall be included in the customs value based on the costs actually incurred, including in cases of:

I - free transport or if the transportation is performed by the importer himself; and

II - goods that enter the country via their own ways.

§ 2^o For the purposes of item II of the head of this article, the distinguisher of the charges incurred in the national territory will be accepted when it is stated on the bill of lading or equivalent document, on the commercial invoice, or on the invoice issued by the provider of the corresponding services.

Art. 10. The following charges or costs shall not be included in the customs value, provided that they are distinguished from the price actually paid or payable for the imported goods, in the respective supporting documentation:

I - transportation and insurance costs, as well as other expenses associated with such transportation, incurred within the customs territory, from the places referred to in item I of article 9^o; and

II - charges related to construction, installation, assembly, maintenance or technical assistance for imported goods, performed after the importation.

Art. 11. Charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods shall not be regarded as part of the customs value, provided that:

I - they are distinguished from the price actually paid or payable for the goods;

II - the financing arrangement was made in writing;

III - where required, the importer can prove that:

a) such goods are actually sold at the price declared as the price actually paid or payable; and

b) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when the financing was provided.

Sole paragraph. The provisions of this article shall be applied in the situations where the financing is provided by the seller, bank or another natural or legal person and, if appropriate, where goods are valued under a method other than the transaction value.

Subsection IV

The Impossibility of Using the Transaction Value Method

Art. 12. Customs authority may decide whether to apply the transaction value method in the following cases:

I - failure to respond to a request to clarification related to the doubts about the truth or accuracy of the declared value;

II - the response to the request referred to in item I is insufficient to clarify the doubt of the customs authority;

III - the importer or buyer of the goods does not provide the customs authority, in perfect order and conservation, with the documentation to support the information contained in the import declaration, the commercial correspondences, as well as the respective accounting records, if bookkeeping is demanded; or

IV - other hypotheses arising from the application of the provisions of the WTO/CVA, including the non-compliance with the provisions of article 13.

Sole paragraph. In the case it is decided that the transaction value is impossible to be applied:

I - the Fiscal Auditor of the Federal Revenue of Brazil shall communicate its grounds to the importer.

II - the customs value shall be determined in accordance to one of the alternate methods provided in articles 2, 3, 5, 6 or 7 of WTO/CVA, under the provisions of article 14 of this Normative Instruction and the Interpretative Notes of Annex 1 to the WTO/CVA.

Art. 13. The application of the transaction value method is prohibited in the case of the absence of objective and quantifiable data, related to the additions referred to in articles 6º, 7º and 9º.

Section II

The Alternate Valuation Methods

Art. 14. In the application of alternate valuation methods, the following shall be observed:

I - the sequential order established in the WTO/CVA, until it reaches the first one that allows determining the customs value, observing the necessary precautions to preserve the fiscal secrecy; and

II - the following reservations made by Brazil, pursuant to paragraphs 4 and 5 of Part I of the Protocol to the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade - GATT 1979, maintained in the WTO/CVA:

a) the inversion of the order of application of the methods foreseen in articles 5 and 6 of the WTO/CVA may be applied only with the consent of the Fiscal Auditor of the Federal Revenue of Brazil; and

b) the provisions of Article 5, paragraph 2, of the WTO/CVA, shall be applied in accordance with the respective interpretative note, regardless of the importer's request.

Art. 15. For the declaration of customs value according to the methods provided in articles 2 and 3 of the WTO/CVA, the importer may provide information to the customs administration about the customs value of identical or similar imported goods that he already has or he may request information about this value.

§ 1º The determination of the customs value, according to the methods provided in articles 2 or 3 of the WTO/CVA, shall be carried out based on the transaction value of identical or similar imported goods, which has been ratified by the Fiscal Auditor of the Federal Revenue of Brazil.

§ 2º Only goods produced in the same country as the goods being valued may be considered identical or similar and goods produced by a different person shall be taken into account only when there are no identical goods or similar goods, as the case may be, produced by the same person as the goods being valued.

§ 3º For the purposes of applying the methods referred to in the head of this article:

I - the transaction value of identical or similar goods sold for exportation to the country shall be used:

- a) at the same time as the goods being valued, or
- b) in a period of time as close as possible to the date of export of the good being valued, in which commercial practices and market conditions that affect the price have remained identical;

II - when the costs and charges referred to in article 9th are included in the transaction value, an adjustment shall be made to take account significant differences in such costs and charges between the goods under valuation and the identical or similar goods in question arising from differences in distances and modes of transport; and

III - if more than one transaction value of identical or similar goods is found, the lowest such value shall be used to determine the customs value of the goods being valued.

Art. 16. In the application of the provisions of subparagraph "b" of paragraph 1 of Article 5 of the WTO/CVA, after a period of (90) ninety days, counted from the date of the registration of the import declaration, if the importer does not position himself, he shall be notified in order to present the supporting documents for the resale of imported goods or the identical or similar goods, noting that in the case of:

I - resale at a unit price higher than the estimated value, the payment of the difference in taxes shall be required, with the respective fines and interests;

II - non-presentation of documents or non-occurrence of resale, the customs value shall be determined in accordance with a subsequent method.

Art. 17. In determining the customs value by applying the computed value method, under the Article 6 of the CVA, the information contained in the statements of calculation of the cost of the imported goods in operations carried out by a related person may be used, for the purpose of determining the real profit, in accordance with the transfer pricing national legislation.

Art. 18. The determination of the customs value, by applying the method provided for in Article 7 of the WTO/CVA, may be carried out based on expert assessment, when based on objective and quantifiable data and observing the principle of reasonableness.

CHAPTER III

SPECIAL CASES OF CUSTOMS VALUATION

Art. 19. When the customs value is not definitive on the date of registration of the import declaration, because the price to be paid or the necessary information to use the method of transaction value depend on factors to be implemented after import, duly proven, the importer shall declare the estimated values, and inform this situation in the "Complementary Information" field of the import declaration.

§ 1º The estimated values shall be rectified by the importer, within 90 (ninety) days, unless the importer proves that the implementation of the factors referred to in the head of this article will take place in a longer period than that declared at the time of import declaration.

§ 2º The estimated values shall be considered as definitively declared if, after the period established in accordance with § 1 of this article, the import declaration has not been rectified.

§ 3º The payment of the duties and taxes' differences, due to the rectification referred to in § 1 of this article, respecting the deadline established therein, shall be made with the legal additions related to the spontaneous payment.

Art. 20. In the importation of goods that are classified in different tariff codes, under the provisions of the General Rules for the Interpretation of the Harmonized Commodity Description and Coding System, and that have been described in the invoice for a single global price, in accordance with the relevant commercial documentation, the importer shall appropriate this price to different imported goods.

§ 1º In the case referred to in the head of this article, the importer shall declare the individualized values of the goods, as well as indicate in the import declaration the criteria used in this apportionment, based on documentation, accounting records or other evidences, which shall be available to the Fiscal Auditor of the Federal Revenue of Brazil, for proof, when requested.

§ 2º In the case that the importer does not have the necessary information for the apportionment to be carried out in the manner established in this article, he shall carry it out based on the transaction of identical or similar imported goods or by other reasonable criteria, consistent with the principles and rules established in the customs valuation legislation.

Art. 21. The customs value of carrier media bearing data or instructions (software) for data processing equipment shall be determined considering only the cost or value of carrier medium itself, provided that the cost or value of the data or instructions is separately identified in the purchase document.

§ 1º The expression "carrier media" referred to in the head of this article shall not be taken to include integrated circuits, semiconductors and similar devices or articles incorporating such circuits or devices.

§ 2º The expression "data or instructions" referred to in the head of this article shall not be taken to include sound, cinematic or video recordings and neither entertainment programs produced in series for retail marketing, including video games intended for use on consoles and game machines of video.

CHAPTER IV

VALUATION OF GOODS ADMITTED IN SPECIAL CUSTOMS REGIME OR APPLIED IN SPECIAL AREA

Art. 22. The customs value of goods admitted under special customs regime or applied in a special area, with total or partial suspension of tax and duty payments, shall be declared based on one of the alternate methods provided for in the WTO/CVA, in accordance with the provisions of article 14 of this Normative Instruction and in the Interpretative Notes of Annex 1 to the WTO/CVA.

§ 1º The provisions of the caput do not apply to imports based on a sale for export to the country.

§ 2º In case there are reasons to doubt the truth or accuracy of the customs value informed in the import declaration related to the admission in the regime, the Fiscal-Auditor of the Federal Revenue of Brazil can ascertain the value of the goods admitted in the regime, with the objective of determining the values of the suspended taxes.

Art. 23. In the case of non-compliance with the rules for the permanence of the goods in the regime or in the case of the clearance for consumption, for the purposes of determining the amount of duty, the customs value of the goods shall be calculated in accordance with the valuation methods provided the WTO/CVA, not limited to the declared value at the time of their admission to the regime.

Sole paragraph. When applicable, the requirement for the constituted credit under a liability term does not affect the calculation and assessment of any difference in taxes and penalties, as a result of determining the correct customs value.

Art. 24. In the case of reimportation of goods submitted to the temporary export regime for outward processing, in repair or restoration operations, the customs value related to the foreign materials used in the performance of these services, as well as the value of materials, components, parts and similar elements, which have been supplied directly or indirectly, free of charge or at reduced prices by the beneficiary of the regime, to be used in the reimported goods, shall be determined under the provisions of this Normative Instruction,

Sole paragraph. In the case of importation of a product resulting from goods submitted to the regime referred to in the caput, the valuation shall be conducted on such resulting product, in

accordance with the WTO/CVA, and, after the determination of the taxable amount, the deduction referred to in Art. 455 of the Customs Act is allowed.

CHAPTER V

FISCAL PROCEDURES FOR CUSTOMS VALUATION

Art. 25. The verification of the adequacy of the customs value declared to the rules and provisions established in the legislation will be carried out after the release of the good - customs clearance, in the period for the calculation of regularity and completion of the clearance, provided for in article 54 of Decree-Law Nº 37, of November 18, 1966.

Sole paragraph. The selection for verification referred to in the head of this article shall be made due to procedures related to risk management, based on the customs administrations own criteria.

Art. 26. For the purpose of proving the declared customs value, the importer shall present, according to the circumstances of the corresponding commercial operation, supporting documents and additional information to those required, in general, for instruction of the import declaration.

Sole paragraph. The information referred to in the head of this article includes, among others, the identification of the persons involved in the transaction and the details of their role in the operation, the commercial correspondence, the negotiation and confirmation documents that prove the conditions of the purchase and sale operation, accompanied by a complete description of the negotiation process and determination of the price of the goods, given the economic circumstances of the international market.

Art. 27. Whenever demanded by customs authority, the importer shall prove the declared value by supplying the necessary information and presenting the respective supporting documentation.

§ 1º For the purposes of this article, the supplying of information and the presentation of the documents, referred to in head of this article, also constitute the obligation of any other person related to the import.

§ 2º For the purposes of the head of this article, data, information and documents, as well as the respective accounting records related to the proof of customs value, shall be kept by the importer, at the disposal of the RFB, for up to five years, counting from the day of registration of the respective import declaration.

Art. 28. When the customs administration has reasons to doubt the truth or accuracy of the customs value declared or of the information or documents submitted to justify this amount, the customs authority may ask the importer or buyer to provide explanations, documents or other evidences which show that the declared value represents the price actually paid or payable for the imported goods, adjusted in accordance with of Article 8 of the WTO/CVA.

Sole paragraph. The doubts of the customs authority may be based on, besides other elements, the incompatibility of the declared price with:

I - the customs values usually declared for identical or similar imported goods;

II - the customs values of identical or similar imported goods determined by the customs administration;

III - the prices for identical or similar goods indicated in international markets, specialized publications, proforma invoices and sales offers;

IV - the costs to produce identical or similar goods;

V - the resale price of the imported, identical or similar goods; or

VI - the parameter price of the good to be valued, determined in accordance with the transfer pricing national legislation.

CHAPTER VI

INTERNATIONAL ACTS CREATED FOR APPLICATION OF THE WTO/CVA

Art. 29. In the calculation of the customs value, the following international acts shall also be observed:

I - Decisions 3.1, 4.1 and 6.1 of the Committee on Customs Valuation (CCV) of the World Trade Organization (WTO);

II - paragraph 8.3 of the Decision on Implementation-Related Issues and Concerns to the Article VII of the GATT 1994, emanating from the IV WTO Ministerial Conference;

III - Explanatory Notes 1.1, 2.1, 3.1, 4.1, 5.1 and 6.1, of the Technical Committee on Customs Valuation (TCCV), of the World Customs Organization (WCO);

IV - Comments 1.1, 2.1, 3.1, 4.1, 5.1, 6.1, 7.1, 8.1, 9.1, 10.1, 11.1, 12.1, 13.1, 14.1, 15.1, 16.1, 17.1, 18.1, 19.1, 20.1, 21.1, 22.1, 23.1, 24.1 and 25.1, of the TCCV;

V - Advisory Opinions 1.1, 2.1, 3.1, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 5.1, 5.2, 5.3, 6.1, 7.1, 8.1, 9.1, 10.1, 11.1, 12.1, 12.2, 12.3, 13.1, 14.1, 15.1, 16.1, 17.1, 18.1, 19.1, 20.1, 21.1, 22.1, 23.1 e 24.1 of the TCCV; and

VI - Case Studies 1.1, 2.1, 2.2, 3.1, 4.1, 5.1, 5.2, 6.1, 7.1, 8.1, 8.2, 9.1, 10.1, 11.1, 12.1, 13.1, 13.2, 14.1 e 14.2 and Studies 1.1, and its supplement, and 2.1, of the TCCV.

Sole paragraph. The official translation into Portuguese of the acts to be observed in the calculation of the customs value is included in the Sole Annex to this Normative Instruction and it will be available on the RFB website <<https://www.gov.br/receitaefederal/pt-br>>.

CHAPTER VII

FINAL PROVISIONS

Art. 30. The Coordination-General of Customs Administration (Coana) may:

I - assign one or more RFB offices the competence for the verification referred to in the head of article 25 in particular to accept or calculate the transaction value of imported goods to be used in one of the alternate valuation methods; and

II - write normative act with:

a) the establishment of attributes and specifications related to the goods, complementary to the Mercosur Common Nomenclature (NCM), to be mandatorily informed in the import declaration;

b) procedures for the ratification of values to be adopted as paradigm or test-value, and for the structuring of databases related to such values; and

c) additional guidelines and procedures for the application of the provisions of this Normative Instruction.

Sole paragraph. For the purposes of the provisions in the subparagraph "a" of clause II of the caput, it is understood as follows:

I - attributes, the intrinsic and extrinsic characteristics of the good, relevant to the formation of its price; and

II - specifications, the detailing of each attribute, that identifies the imported good.

Art. 31. The following Normative Instructions are revoked:

I - Normative Instruction SRF Nº 80 of 27 December, 1996;

II - Normative Instruction SRF Nº 318 of 4 April, 2003;

III - Normative Instruction SRF Nº 327 of 9 May, 2003; and

IV - Normative Instruction RFB Nº 1.726, of 3 August, 2017.

Art. 32. This Normative Instruction shall be published in the Brazilian Federal Official Gazette, and it enters into force on July 1st, 2022.
