GENERAL AGREEMENT

ON TARIFFS AND TRADE

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Committee on Customs Valuation

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LEGISLATION OF MEXICO[1]

Mexican Responses to Questions put forward by the United States at the Committee Meeting of 17 May 1994

The following communication, dated 5 July 1994, has been received from the Permanent Mission of Mexico.

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1. With regard to the second criterion in the "Resolution setting out test criteria for the interpretation of provisions relating to the customs value of goods", contained in document VAL/1/Add.25/Suppl.2, the United States asks whether the words "the entire amount of such costs will be considered eligible to be added" only includes the cost of freight, loading, unloading and insurance applicable up to the point of export and not all freight costs incurred in sending goods to Mexico.

The full text of the second criterion in this Resolution states: "If the text of the invoice or any other commercial document does not distinguish the portion of the freight, loading, unloading and insurance costs applicable up to the point of export, the entire amount of such costs will be considered eligible to be added".

Article 49, Section I(d), of the Customs Law in force up to 31 December 1993 provided for the addition to the price paid for the goods of the cost of loading, unloading, freight and insurance up to the place of export. The criterion referred to specifies that when it is not possible to distinguish the portion of the freight, loading, unloading and insurance costs incurred for the transport of goods up to the place of export, the addition mentioned in Article 49, Section I(d), shall include the entire amount of such costs.

In this connection, as officially confirmed to the Committee on Customs Valuation on 17 May 1994 (VAL/1/Add.25/Suppl.3), Article 49, Section I(d), was amended on 29 December 1993 and since 1 January 1994 the addition for the costs referred to shall include costs incurred up to the place of anchorage of the ship transporting them to the port of destination, up to the place at which the goods cross the international border or the first Mexican airport at which the aircraft transporting the goods lands, so this criterion should be interpreted as referring to any of these places because the law takes precedence over the aforementioned Resolution.

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[1]VAL/1/Add.25/Suppl.2

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2. Concerning the third criterion of the aforementioned Resolution, the United States requests clarification regarding the circumstances under which the insurance cost will be added to the price paid. It considers that the provision provides for a special addition, even though, in accordance with Article 49, Section I(d), of the Customs Law only the insurance costs incurred abroad up to the place of export should be added.

The text of the third criterion of the Resolution reads as follows: "Provided insurance is contracted on 1 per cent of the price of the goods, the cost of insurance will be considered eligible to be added whatever the moment the premium is actually paid".

It should be noted that this criterion simply specifies that, for the purposes of adding the insurance costs referred to in Article 49, Section I(d), of the Customs Law, on the assumption that the insurance premium is based on a percentage of the price, that is to say when insurance costs up to the place of import cannot be distinguished, the total cost of insurance should be added to the price.

3. A third concern of the United States relates to the use of the word "importer" rather than "buyer" as in the Customs Valuation Code.

Mexico wishes to re-emphasize, as it has already stated, that it was decided to use the word importer rather than buyer in order to make it clear that these were sales for export to Mexican territory and not just any sales.

Although the Customs Law does not define the word importer, the importer is generally considered to be the consignee of the imported goods thus eliminating the customs agent, transporter or any other agent not concerned by the operation.

The Mexican authorities do not therefore consider that the use of this word is contrary to the Customs Valuation Code. It should be added that up to the present this provision has not given rise to any problems.

4. Finally, the United States asks whether the Ministry of Finance and Public Credit has fixed or intends to fix a maximum percentage by which the value may differ in comparison with the test value so that the declared value is not deemed to be affected by this relationship.

In reply, no such percentages have been fixed nor is the possibility of fixing them being examined. Prior to the amendments to the Customs Law in 1993, it was decided that, since these are operations between persons who are related, the declared value was not considered to be affected by the relationship when the importer showed that this value did not differ by more than 3 per cent in relation to any of the test values. This percentage was abolished as a result of the amendment and the text of the Customs Valuation Code was adopted, which provides that it must be demonstrated that the declared value closely approximates one of the test values.