

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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**Committee on Customs Valuation**

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**INFORMATION ON IMPLEMENTATION AND ADMINISTRATION  
OF THE AGREEMENT**

**Legislation of Mexico**

**Supplement**

Attached are the amendments made to the Mexican legislation in the area of customs valuation as published in the Mexican Official Gazette (Diario Oficial de la Federación) on 29 June and 26 July 1993.

RESOLUTION SETTING OUT TEST CRITERIA FOR THE INTERPRETATION  
OF PROVISIONS RELATING TO THE CUSTOMS VALUE OF GOODS

WHEREAS

In accordance with the undertakings entered into in the framework of the General Agreement on Tariffs and Trade (GATT), the amendments to the Customs Law concerning valuation entered into force on 1 January 1993:

It is desirable for individuals to know the interpretative criteria followed by the authorities in this respect, and they should be assured that these criteria are applied by the various authorities responsible for their administration and control;

The Federal Tax Code establishes that the criteria set out by duly authorized tax officials and published in the Diario Oficial de la Federación create rights for individuals but do not give rise to obligations for individuals;

On the basis of Article 63, Section II, of the Internal Rules of the Ministry of Finance the Director General (Legal) of Revenue is empowered to set out the criteria to be followed by the administrative units attached to the Department of Revenue in the application of tax provisions;

The following criteria are established:

FIRST. Where the amounts of the costs referred to in Article 49, Sections III and IV, of the Customs Law have to be added to the price paid or payable, and at the time of importation the amount of these costs cannot be determined, the importer may apply the transaction value method, provided he estimates the approximate amount of these costs and provisionally determines the taxable base.

When the costs mentioned in the preceding paragraph can be determined, if they result in amounts different from the estimated amounts the importer must submit a correction to the import declaration (pedimento) correcting the taxable base and paying the appropriate revised contributions, as well as the surcharges arising since the date when the contributions were collected. If the difference is in his favour, the taxpayer may request a refund or compensation.

If after a period of one year from the date of submission of the import declaration the amount of the costs referred to in Article 49, Sections III and IV, of the Customs Law still cannot be determined, the taxpayer shall rectify the provisionally determined customs value of the goods, using the appropriate valuation method in accordance with Article 54 of the Customs Law.

This criterion may be applied provided the importer uses the inventory control and valuation method that identifies foreign-trade goods.

SECOND. 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.

THIRD. 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.

FOURTH. If a shipment comprises a good which must be valued in accordance with the transaction value method and another identical or similar good for which no sale exists and which is

consequently not included in the invoice, the latter good may be valued using the method of the transaction value of identical goods or using the method of the transaction value of similar goods, as the case may be, by reference to the customs value of the former good.

FIFTH. Where, in accordance of Article 74 of the Customs Law, goods that have been definitively exported return to the national territory, it will not be necessary to make the statement of value referred to in the penultimate paragraph of Article 25 of the Customs Law, and the importer may determine as the customs value the commercial value stated in the export declaration.

SIXTH. In the case of the return to the national territory of goods temporarily exported under Article 75.II.(a), (b) and (c) of the Customs Law, it will not be necessary to submit the statement of the customs value of the goods.

Mexico City, 22 June 1993. The Director-General (Legal) for Revenue, Ruben Aguirre Pangburn.

## CUSTOMS LAW

### Chapter Three

#### Taxable Base

#### Section One

#### The General Import Tax

Article 48 The taxable base of the General Import Tax shall be the customs value of the goods, except in the cases where the relevant Law provides otherwise.

The customs value of the goods shall be their transaction value, except as provided for in Article 54 of this Law.

The transaction value of goods to be imported shall be the price paid for the goods, provided that all the conditions referred to in Article 51 of this Law have been met and that the goods have been sold to the importer for export to the national territory; where applicable, the price shall be adjusted in accordance with the provisions of Article 49 below.

The price paid means the total amount paid or to be paid by the importer to the seller or on his behalf for the imported goods.

Article 49 The transaction value of imported goods shall include the following costs in addition to the price paid:

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 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) charges for loading and unloading the goods, as well as the cost of freight or insurance paid abroad up to the place of exportation.

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 connection with the production and sale for export of the imported goods, to the extent that such value has not been 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, and plans and sketches undertaken outside 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 must pay, either directly or indirectly, as a condition of the 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 resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.

For the purpose of determining the transaction value of the goods, the price paid shall be increased in accordance with this Article on the basis of objective and quantifiable data.

Article 50 The transaction value of the imported goods shall not take into account the following, provided that they are not included in or are separate from the price paid:

I. Costs paid by the importer on his own behalf even when they are deemed to benefit the seller, except those in respect of which an adjustment must be made in accordance with the provisions of Article 49 of this Law.

II. The following costs, provided that they are separate from the price paid, for the imported goods:

- (a) charges for construction, installation, erection, assembly, maintenance or technical assistance undertaken after importation on imported goods;
- (b) the cost of transport and insurance after importation;
- (c) taxes on foreign trade and any other taxes payable in the national territory as a result of the importation or disposal of the goods.

III. Payments by the importer to the seller in the form of dividends or other payments which are not directly related to the imported goods.

For the purposes of this Article, the amounts are deemed to be separate from the price paid when they are mentioned, listed or specified separately from the price paid in the invoice or other commercial documents.

Article 51 For the purposes of the provisions of Article 48 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 restrictions which:
  - (a) are imposed or required by the legal provisions in force in the national territory;
  - (b) limit the geographical area in which the goods may be resold, or;
  - (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.
- III. That no part of the proceeds of any subsequent resale, disposal or use of the goods by the importer will accrue directly or indirectly to the seller, except for the amount of the adjustment referred to in Article 49, Section IV, of this Law.
- IV. That the buyer and seller are not related, or where the buyer and seller are related, this has not affected the transaction value.

If none of the above-mentioned cases apply, the tax base of the General Import Tax shall be determined in accordance with the provisions of Article 54 of this Law.

Article 52 For the purposes of this Law, persons shall be deemed to be related if:

- I. They are officers or directors 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 outstanding stock, shares or securities, with voting rights, of both of them.
- V. One of them directly or indirectly controls the other.
- VI. Both of them are directly or indirectly controlled by a third party.
- VII. Together they directly or indirectly control a third party.
- VIII. They are members of the same family.

Article 52-A In a sale between related persons, the circumstances of the sale shall be examined and the transaction value shall be accepted when the relationship did not influence the price.

For the purposes of this Article, the relationship shall not be considered to have influenced the price whenever it is shown that:

- I. The price was fixed in conformity with the normal price-setting practices followed in the industry concerned or with the manner in which the seller fixes prices for purchasers not related to him;

II. With the price the seller is able to recover all his costs and obtain a profit that is in keeping with the global profits obtained by the enterprise in a representative period in sales of goods of the same class or kind.

Article 53 In a sale between related persons the transaction value shall be accepted whenever the importer demonstrates that such value closely approximates to one of the following test values occurring at or about the same time and it has been stated in the declaration referred to in Article 59 of this Law that a relationship with the seller of the goods exists and that such relationship has not influenced the price:

I. The transaction value in sales to unrelated buyers of identical or similar goods for export to the national territory;

II. The customs value of identical or similar goods as determined under the provisions of Article 55-B of this Law.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 49 of this Law and costs incurred by the seller in sales in which he and the importer are not related that are not incurred by the seller in sales in which he and the importer are related.

The Ministry of Finance and Public Credit shall establish, through general rules, the test criteria by which it shall be determined that a value closely approximates to some other value.

Article 54 If the taxable base of the import tax cannot be determined in accordance with the transaction value of the imported goods as provided for in Article 48 of this Law, or does not derive from a sale for export to the national territory, it shall be determined in conformity with the following procedures to be applied in the order set out below and on the basis of elimination:

I. Transaction value of identical goods, determined in accordance with Article 55 of this Law.

II. Transaction value of similar goods, determined in accordance with Article 55-A of this Law.

III. Value of the unit selling price determined in accordance with Article 55-B of this Law.

IV. Value determined in accordance with Article 55-E of this Law.

Article 55 The value referred to in Section I of the preceding Article shall be the transaction value of goods identical to the goods being valued if the said goods have been sold for export to the national territory and imported at or about the same time at the same commercial level and in substantially the same quantity as 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, provided that such adjustments can be 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 identical goods is found, the lowest such value shall be used.

In applying the transaction value of goods identical to the goods being valued, an adjustment shall be made to such value to take account of significant differences in the costs and charges referred to in Article 49, Section I, paragraph (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 means goods produced in the same country as the goods being valued and which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods otherwise conforming to the definition given in this paragraph from being regarded as identical.

Goods which incorporate or reflect, as the case may be, any of the elements mentioned in Article 49, Section II, paragraph (d), for which no adjustment has been made because such elements were undertaken in the national territory, shall not be considered to be identical goods.

The value of identical imported goods whose value has been modified by the importer or the authorities shall not be taken into account except where such modifications are also included.

**Article 55-A** The value referred to in Article 54, Section II, of this Law shall be the transaction value of goods similar to the goods being valued if the said goods have been sold for export to the national territory and imported at or about the same time, at the same commercial level and in substantially the same quantity as 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, provided that such adjustments can be 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 the goods being valued, an adjustment shall be made to such value to take account of significant differences in the costs and charges referred to in Article 49, Section I, paragraph (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 means goods produced in the same country as the goods being valued and which, although they are not alike, have like characteristics and like 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 which incorporate or reflect, as the case may be, any of the elements mentioned in Article 49, Section II, paragraph (d), for which no adjustment has been made because such elements were undertaken in the national territory, shall not be considered to be similar goods.

The value of similar imported goods whose value has been modified by the importer or the authorities shall not be taken into account except where such modifications are also included.

Article 55-B The unit selling price is determined as follows:

I. If the imported goods to be valued or identical or similar imported goods are sold on the national territory in the condition as imported, the value of the imported goods under the provisions of 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 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 55-D of this Law.

II. If neither the imported goods nor identical nor similar imported goods are sold in the country in the condition as imported, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the national territory who are not related to the persons who are selling the goods, due allowance being made for the value added by such processing and the deductions provided for in Article 55-D of this Law, provided that such sale takes place within ninety days from the date of importation.

For the purposes of this Article, the unit selling price means the price at which the greatest number of units are sold in sales to persons not related to the sellers of the goods, at the first commercial level after importation of the goods at which such sales are made.

Any sale on the national territory where the buyer has directly or indirectly supplied free of charge or at reduced cost any of the elements mentioned in Article 49, Section II, of this Law, for use in the production of imported goods or the sale of the goods for export, shall not be taken into account.

Article 55-C For the purposes of Articles 53, 55, 55-A and 55-B, the term "about the same time" means a period not exceeding ninety days prior or subsequent to import of the goods being valued.

Article 55-D For the purposes of Article 55-B of this Law, deductions shall be made for the following:

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

II. The usual costs of transport, insurance and associated costs incurred subsequent to export, for example, loading, unloading, handling and storage not deemed to be general costs in accordance with the preceding paragraph.

III. Taxes on foreign trade and other taxes payable in the national territory for the importation or sale of goods.

Article 55-E Where the value of the imported goods cannot be determined in accordance with the provisions of Article 48 and Article 54, Sections I, II and III, of this Law, the value shall be determined by successively applying the provisions set out in those Articles, proceeding sequentially and by elimination, with greater flexibility, in conformity with reasonable criteria compatible with legal principles and provisions, on the basis of the data available in the national territory.